

Presidency or Province and District.	Rain-fall for fortnight preceding.	State of agricultural prospects.
Bengal—(contd.)		
Patna (28th)	Weather cool ; no change in the state of things, except that every day passes without rain ; prospects of crops are getting worse and worse, and if it does not rain within ten days, there will be great scarcity, if not famine. Though much of the cold weather crops has germinated, a good deal has not been sown, and there is the fear of what has come up being burnt up ; prices rising steadily.
Bhagalpoor	Weather cloudy now and then ; good rain reported in the south of the district during the first part of the fortnight, but none in the latter part ; rice crop still fair on lowlands ; twelve annas outturn possible to the north of the Ganges ; in Modhopoora Sub-division crops are not good, except in the south and south-west, where a fair outturn may be looked for ; in Soopooli crops are as bad as they well can be ; rain very much wanted for rice and cold weather sowings ; with rain a good deal of the rice crop may turn out well.
Cuttack	0.08	No rain during the first week, but during the second week it has fallen pretty generally in the interior ; early rice has been a full crop ; late rice good, except on high lands ; cold weather crops promising ; no scarcity apprehended now.
Kamroop	0.22	Weather cold and foggy in the nights and mornings ; late rice crop backward for want of rain ; tea appears thriving on the whole ; sugarcane, cotton, and pulses progressing favorably ; mustard seed being sown.
<i>Public health.</i> —Burdwan.—Fever prevalent. 24 Pergunahs.—Fever diminishing in Sankhira ; at Bariepoor fever of a malarious type continues to prevail ; ordinary fever at Basirhat. Dacca.—Fever reported in the west of the district, and some cholera in the town. Patna, Bhagalpoor, Cuttack and Kamroop.—Public health good ; Purneah and Durrung fever prevalent. Moorshedabad and Maldah small-pox in some places.		
<i>General Remarks.</i> —Want of rain is the general complaint throughout the country with very few exceptions ; slight showers have fallen in some places, but are too local to be of any real advantage to the rice crop ; in most of the districts the late rice on highlands is past recovery ; the rice on lowlands is also suffering, and if it does not rain soon, it will be seriously damaged ; the cold weather crops have not been sown in many places for want of moisture, and where they have been sown, they are germinating slowly, but in some places they are doing well ; the Patna Division is suffering most, and also parts of the Burdwan, Presidency, and Rajshayee Divisions ; the districts of Beckergunge, Chittagong, Chittagong Hill Tracts, Cuttack, Pooree, Khasi and Jynteeah Hills and Luckimpur are the only places where the prospects are favourable, but in a few other districts the out-turn will not be very bad ; prices are rising.		
N.W. Provinces. (Oct. 31st)		
Gorakhpur	No report received.
Bustee	Prospects bad ; scarcity expected.
Banaras	Land being irrigated for rubbee sowing ; wheat and rice rising in price.
Mirzapoor	No report received.
Allahabad	Late rice has suffered much ; other crops fair.
Banda	No report received.
Humeerpoor	Ditto ditto.
Jaloun	Ditto ditto.
Jhansi	Rubbee well sown ; prices falling ; relief works may soon be closed.
Cawnpoor	All crops very good, except early rice, and cotton crops very good.
Futtehgarh	Crops very good.
Agra	No change in prospects.
Allyghur	Khureef crops entering market and prices fair.
Meerut	Prospects good.
Saharunpoor	Khureef good ; prospects of rubbee very good.
Bijnour	Rice being cut ; cotton fair.
Moradabad	Khureef crops good, except rice.
Bareilly	Prospects still good.
<i>General Remarks.</i> —East of Allahabad prospects poor and scarcity apprehended ; elsewhere prospects good, both for khureef and rubbee.		
Punjab. (Oct. 30th)		
Delhi	Nil	Crops maturing ; no epidemic, but fever still prevalent.
Umballa	Crops and health good.
Jullundhur	Ditto ditto.
Lahore	Health improving ; rain wanted in Barani lands.
Mooltan	Canals dried up ; in tahsil Sodhran outturn of khureef and indigo small ; preparation for rubbee in progress ; fever, but not fatal, and cattle disease (chichal) prevalent in one village of tehsil Shujabad, also in Seraisidhie ; health of district good.
Rawal Pindes	More rain wanted ; harvest prospects good ; fodder dear ; fever prevalent, but general health good.
Peshawur	Crops on unirrigated lands require rain ; fever prevalent.
M. (Oct. 30th)		
Lucknow (29th)	Want of rain severely felt ; the rice crop has extensively failed ; much of the harvest has withered ; and although the rubbee sowings are being carried on, it is feared that the area under crops will be less than usual ; district free from disease.
Fyzabad	
Central Provinces. (Oct. 24th)		
Upper Godaveri (Oct. 24th)	1.40	Weather cloudy ; prospects fair ; some jowari and rice lost ; fever prevalent.
Chanda (.. 25th)	Prospects favourable ; early rice harvesting ; small-pox and dengue lingering ; prices stationary.
Raipoor	Weather clear ; absence of rain during the past four weeks reduces the prospects of the harvest by one-half ; rubbee sowings commenced ; health good ; prices slightly risen.

Presidency or Province and District.		Rain-fall for fortnight preceding.	State of agricultural prospects.
Central Provinces,—(contd.)			
Mandla	...	.....	Khureef crops have suffered somewhat by the early cessation of rain; another fall much wanted; health good; prices rising.
Bilaspur	...	.....	Weather slightly overcast; rise in the western half of the district, and in the northern zemindaris almost lost from want of late rains; other crops, with the exception of oil-seeds, very poor; rubbee prospects doubtful; continued drought is causing some apprehension; prices rising fast; health good.
Balaghat	...	.....	Weather clear; lowland rice crops promise to be fair; in the highlands very poor; prices easy; fever prevalent.
Seoni	(Oct. 29th)	.....	Khureef crops being reaped; rubbee sowings almost completed; rain wanted; no epidemic.
Wurdah	...	.....	Weather clear; prospects of crops favorable; fever prevalent.
Jubbulpur	...	.....	Crops have suffered slightly from want of rain; rubbee sowings commenced; prices rising.
Damoh	...	.....	Prices stationary; health good; weather clear; crops suffering from want of late rains; district healthy.
Narsinghpur	...	.....	Prospects fair; prices falling.
Nagpoor	...	.....	Weather clear; khureef crops, except inferior rice, promise a fair harvest; rubbee sowings completed and partly germinated; prices steady; health good.
Nimar	...	.....	Agricultural prospects favourable; prices stationary; fever more prevalent.
Hoahungabad	...	.....	Prospects good; no epidemic.
Baitol	...	.....	Khureef crops good; rubbee sowings nearly completed.
Hyderabad Assigned Districts.			
East Berar	(Oct. 30th)	.....	Khureef crops in good condition; rubbee sowings nearly completed.
West Berar	(29th)	.....	Crops thriving; weather fair.
Mysore and Coorg. (Oct. 30th)			
Bangalore	(29th)	1.61	Crops reported on favourably throughout the district; public health good; slight fluctuation in prices.
Kolar	(28th)	2.45	Crops thriving throughout the district; tanks received full supply; public health indifferent.
Toomkoor	"	1.66	Crops very promising; public health generally good; many tanks full.
Mysore	(25th)	2.37	Tanks received supply; crops thriving; prices have fallen.
Hassan	(20th)	3.45	Crops flourishing; coffee-picking commenced; public health good; disease among cattle in two taluqs.
Shimoga	(25th)	1.90	Wet crops progressing fairly; dry crops being damaged to some extent by heavy rain; Mulnad arecanut gardens affected by disease; public health good.
Kadoor	(27th)	6.45	Crops flourishing; public health good; cattle disease in three taluqs.
Chituldroog	"	1.85	Crops thriving generally; heavy rains damaged to some extent wheat, Bengal and black grain and ragi crops in some localities; public health good; dengue fever in one taluq.
Coorg	(29th)	0.60	Picking of coffee has commenced; agricultural prospects generally good.
			<i>General Remarks.</i> —Considering the lateness of the season prospects are very good; there has been an unprecedented heavy and early burst of the north-east monsoon, which has greatly benefitted both wet and dry crops.
Rajpootana.	(Oct. 30th)		
Jeypoor	"	Nil	Agricultural prospects and public health good.
Ajmere	"	Nil	Weather seasonable; health good.
Central India.	(Oct. 30th)		
Indore	"	Nil	Dengue prevalent; crops good.
Gwalior	"	Nil	Weather, health and crops good.
Neemuch	"	Nil	Sickness decreasing; prospects favourable.
Rutlam	...	.....	No report received.
Baghelkhund (Sutro)	...	Nil	Crops favorable; public health good.
British Burmah.			
Rangoon	(Oct. 31st)	.....	Public health generally good; crops very promising.
Nepal	...	.....	No report received.

A. O. HUME,
Secretary to the Government of India.

GOVERNMENT OF INDIA.
PUBLIC WORKS DEPARTMENT.

Resolution—By the Government of India, Public Works Department, (Nos. 431—9 B—C, dated Simla, the 28th October 1873).

THE Governor General in Council has learned with deep regret that the prospects of the crops in parts of Bengal are such that it will no doubt be necessary shortly to find work for the people as a means of relief. Where such relief becomes an urgent necessity, works must be undertaken for the purpose; if there are no well considered projects already under execution, or in such a state of preparation that they can be at once set in hand.

2. The parts of the country reported to be in the most urgent need are the Patna Division and the Rajshahye Division.

3. In the southern part of the former of these tracts the Soane Canal Project is in course of execution, and the Lieutenant-Governor of Bengal is authorized to extend active operations at once to all the branches where relief works are required, working on the rough estimates where detailed estimates are not ready. But where there are detailed estimates for works sufficiently near, such works should be preferred to those for which estimates are not yet ready.

4. In order to strengthen the engineering staff of the Soane Canals, the Government of the North-Western Provinces will be requested to hold in readiness a Superintending Engineer and the establishment of the Eastern Ganges Canal survey, to proceed to Behar on the requisition of the Government of Bengal; and the Government of the Punjab will likewise hold in readiness the Engineers of Survey Division of the Baree Doab Canal.

5. In the northern part of the Patna Division there is no large project in course of execution, and works, if required, must be selected from local projects, unless the lately deferred scheme for the revision of the Gunduck embankments (Bengal Government's letter No. 4640, dated 13th September 1873) should be found a suitable source of employment.

6. In the Rajshahye Division the Northern Bengal Railway project has lately been completed, and was referred to the Secretary of State for sanction in the Government of India's Despatch No. 204 R of the 15th instant. In anticipation of the approval of Her Majesty's Government, the Governor General in Council is now pleased to sanction the immediate commencement of work on this Railway. To strengthen the engineering staff, the greater part of the Engineers now employed under Mr. Collet in surveying for the projected Western Rajpootana Railway will be withdrawn and attached to the Northern Bengal Railway.

7. Such funds as may be required for the Northern Bengal Railway, and for relief works, and such additional funds as may be required for the more active prosecution of work on the Soane Canals, should be applied for at once by the Government of Bengal. For the Railway and the Soane Canal works the funds will be assigned under the extraordinary grant; for the other works not classed as loan works, the charge will fall on the Provincial revenues, or, if necessary, on the Imperial revenues of the year.

8. In the spring of 1869, when great scarcity existed in Upper India, the Government of India considered it right to endeavour to equalize the supplies of food grains over a large area, by arranging with the Guarantee Railway Companies that they should lower their rates for the carriage of such grains to $\frac{1}{8}$ th pie per mannd-mile (which was believed to be approximately the actual cost of carriage), and charge the loss that the Railways would thus incur to the Government. It may possibly be again necessary to resort to this measure in some parts of the country, and should this be the case, the Government of India will be prepared to incur the same liability. In this view the Consulting Engineer to the Government of India for Guaranteed Railways, Calcutta, should be directed to place himself forthwith in communication with the Government of Bengal, and to do every thing in his power to give effect to such instructions as he may receive from the Lieutenant Governor. The Governor General in Council will await an expression of His Honor's opinion on this point before taking final action in the matter.

9. In making provision for this possible contingency, the Governor General in Council relies on the hearty co-operation of the representatives of each Railway Company, and feels that the Government may rest assured that this will be given.

10. For further instructions for general guidance, the Governor General in Council desires that the attention of officers in the Public Works Department may be drawn to the Resolution of the Government of India in the Public Works Department, Nos. 248—59 I of

24th September 1868, which should be re-published with the present Resolution. Chapter XIII A of the Public Works Department Code contains a revision of the rules originally published with the Resolution of 1868.

ORDER.—Ordered, that the above Resolution be communicated to the Governments, Departments and Officers named in the margin, for information and guidance.

And to the Financial and Agriculture, Revenue and Commerce Departments for information.

Also that these proceedings be reported to the Secretary of State, and published in the *Gazette of India*.

Government of Bengal, in the General Department.
Ditto ditto, in the Irrigation Department.
Ditto ditto, in the Public Works Dept.
Consulting Engineer for Guaranteed Railways,
Calcutta.
Government of North Western Provinces, Public
Works Department, Irrigation Branch.
Government of Punjab, Public Works Department,
Irrigation Branch.

Anticipated scarcity in Upper India.

Resolutions—By the Government of India, Public Works Department,—(Nos. 248—259 I., dated Simla, the 24th September 1868).

OBSERVATIONS.—The Governor General in Council has received with much concern the reports of the Lieutenant-Governors of the North-Western Provinces and the Punjab, and of the Chief Commissioners of Oudh and the Central Provinces, regarding the scanty fall of rain during the last three months. The latest accounts show that heavy rain has fallen in the western districts of the North-Western Provinces and Oudh during the last few days, but the deficiency of rain seems to threaten a serious or even complete failure of the khureef or autumn crops in many parts of Northern India. His Excellency in Council has already intimated to the Local Governments and Administrations that he will cordially support them in carrying out all measures of relief which they may deem requisite, should the present fears for the safety of the khureef harvest unfortunately prove well founded; and His Excellency in Council has stated that a further expression of his views would be communicated to them upon the general course which it may become proper to pursue.

2. The first consideration which arises is that the Government must be prepared not only for the misfortune which now seems impending in some districts, the more or less complete loss of the khureef crop, but for the far more serious calamity of a failure of the rain in September and October, and the consequent loss of the ensuing rubbee or spring crop also. It seems probable from past experience that if the season is favorable for sowing the rubbee, and good winter rains follow, prices will not very greatly rise after the end of the year; that the distress caused by the failure of the khureef will have become severe in November or thereabouts, and that from the present time till then the pressure will gradually increase. But if there should further be a failure of the September and October rains, and the rubbee sowings be lost, preparation must be made for a great calamity, the intensity of which cannot be expected to cease till the first falls of the summer rain of the coming year towards the end of June 1869, and may even be prolonged for a further period.

3. It must be remembered that the harvests of last year are believed to have been unusually good in most districts, and that under no circumstance could the crops of the present khureef have come into the market till November, nor could the rubbee crop of next year come forward for consumption till May of next year. There is, therefore, reason to hope that the pressure from a failure of the food crops is not in any case likely to be very suddenly developed, and that time may be allowed for the supply of a supplementary stock from other parts of India if the scarcity becomes intense in the North-West. The existence of the railway, which will very shortly be opened through between Calcutta and Lahore and Mooltan, will assuredly add in a most important degree to the facilities for importing the wanting grain for Upper India, and this gives an additional ground for hoping that, should the worst happen, so far as a failure of the rain is concerned, yet the actual rigour of the resulting scarcity may not be so aggravated as on former like occasions.

Comparing the condition of affairs in 1860 with that of the present time, it is worthy of remark that in 1860 prices began to rise after June, and that in August, in the upper part of the Doab, wheat was selling for about 11 and 12 seers for the rupee, and that the price never rose so high as 8 seers per rupee. The last accounts show that in the upper part of the North-West Provinces, the price of wheat is still about 20 seers per rupee, which is not greatly above the average of the last eight months. This seems to prove that the stock of wheat is now far larger than it was in 1860. The rise in the price of jowar and bajra, the chief food of the agricultural population, has, however, been much greater, being in July about double what it was in January. The extension of irrigation from the canals of the Doab and the Delhi territory, which has been steadily going on for many years past, must have greatly increased the available stock of food both for men and cattle; and everything has been and will

be done during the present and coming seasons, to obtain the greatest general advantage from the available supply of water. The increase of irrigation due to the Ganges Canal alone since the famine of 1860-61 is about 300,000 acres, so that the area irrigated by this canal has nearly doubled.

4. The conclusion that the Governor General in Council draws from these reflections is, that there is still a period of about two months available for making preparations to meet what may be a very terrible calamity. That in or before November next, it will in all probability be possible to form a fair judgment from the amount of rain which may have fallen in September and October as to the prospects of the rubbee, and that then the Government will know whether the danger has passed, or whether it has to make provision for the worst. If the khureef only fails, the loss will in a great degree fall on the crops which give food for cattle, and the pressure on the people may probably be efficiently relieved by the employment which may be given them by the public works commonly in prosecution in the several districts. Great distress is not, perhaps, likely to arise, unless the rubbee sowings fail, and then not long before the end of the year; but if the rubbee fails, the scarcity will probably continue in a very severe form at least till the end of June 1869.

5. In proceeding to consider the manner in which the Government should act if severe scarcity arises, His Excellency in Council would first most earnestly impress upon all persons in authority the necessity for not permitting the smallest interference with the ordinary operations of trade during the continuance of the scarcity. On this subject the following extract from a paper drawn up in 1861 by Mr. J. Strachey, then Collector of Moradabad, may be regarded as expressing the views of the Government of India at the present time:—

There is one other point connected with this part of the question to which it is desirable to refer. The Government has already publicly expressed its disapproval of all interference by its officers with the object of reducing the price of food. I believe that orders still more strong and explicit would be useful. Unfortunately public education in these matters is at a miserably low ebb. In times of difficulty like the present, almost every Magistrate is constantly urged, both by Englishmen and by Natives, to interfere, in some way or other, for the purpose of cheapening food, or of rendering it easier of access to the consumers. Reports frequently become prevalent that in some part of the country such interference has been actually practised. Whether these reports be true or false, they are extremely mischievous. The determination of Government to allow no such interference ought to be so notorious, that reports of this kind shall obtain no credence. These rumours are the more readily believed, because they fall in with the general idea of what is proper and probable. The mere suspicion of any interference of the kind is sufficient to check the speculations of the corn merchants, and it cannot be doubted that this is a cause which often, in this country, has the effect of stopping the exportation of grain from distant markets.

It cannot be too clearly borne in mind that in time of extreme famine, when it is impossible to supply the deficiency of food by importation, the main safeguard against general starvation is the reduction of consumption, and that this can only be effectually brought about by a rise of prices. The grain-dealer, therefore, while he works for his own personal advantage by raising the price of food as it becomes scarce, is in fact providing the means for securing the community against the extremity of famine, and his action, so far from being, as it is too often ignorantly described to be, that of a public enemy, is much more that of a public benefactor.

6. Another point of great importance is that there should be no appearance or suggestion of Government interference in the introduction of grain, unless under most exceptional circumstances, which, so far as the Governor General in Council at present sees, can hardly arise in the districts of the plains. The experience of the famine in Orissa may possibly be brought forward as an argument for direct Government interposition on the present occasion. But the analogy of that case should not be permitted to lead to any disregard of the true principles which it is important to observe. To quote again from the paper before noticed—

There is no want of private speculation engaged in bringing grain from other districts. The actual quantity of food imported, although insufficient, is still very large, and any attempt by the Government to import grain upon its own account, or any interference with the operations of private traders, could hardly fail to be mischievous. "Direct measures," says Mr. J. S. Mill, "at the cost of the State, to procure food from a distance are expedient when, from peculiar reasons, the thing is not likely to be done by private speculation. In any other case they are a great error. Private speculators will not, in such cases, venture to compete with the Government, and, though a Government can do more than any one merchant, it cannot do nearly so much as all merchants."

The true limitation of the action of Government in this respect is here given. So soon as the Government is satisfied that private trade is manifestly inadequate for the introduction of grain into the suffering districts in sufficient quantity, then the analogy to the position of Orissa will be established, but not till then. The case of severe scarcity in the hill districts of Kumaon and Gurhwal, in which the means of communication are extremely bad, and where there is virtually no internal commerce except on the very smallest scale, is one in which the direct action of Government in importing grain has on former occasions been exercised, and would, under the rule above laid down, be fully justified. But judging from past experience, it may safely be assumed that the enterprise of individuals will, in the open districts of the plains, no more fail on this occasion than it has failed before under similar circumstances. The probabilities are altogether in an opposite direction. The greatly increased facilities for cheap transport given by the railways now open will do much to stimulate the activity of trade, and to draw into the impoverished districts supplies from a distance in a manner not before possible.

The Governor General in Council desires to point out in a marked manner that during the calamity of 1860-61, Sir G. Edmonstone, the Lieutenant-Governor of the North-Western Provinces, allowed no Government interference of any description with the grain trade, and left the supply of food to the ordinary operations of the commercial community with most satisfactory results. It is apparent from the known facts that in that year, so far as the means of communication and transport available admitted, the import of food on a very large scale commenced as soon as the scarcity declared itself in a distinct form, and that the imports continued until the pressure ceased.

While, therefore, the only safe general rule will be to exercise no direct interference with the supply of grain, it will yet be most important to watch the condition of the markets, and to ascertain as exactly as possible the amount of the importations and the quarters from which the supplies are received. If an extreme condition of want arise, it may be right to enquire whether aid could be obtained from any of the more distant markets to which the action of private trade had not reached, and in the last resort the co-operation of the Government as an importer might be desirable. But these are contingencies on which a correct judgment can only be formed as the occasion actually arises.

7. It may be useful, in illustration of the powers of traders to deal with great operations, such as the feeding of a population of millions, to observe that it is a fact beyond question that the present normal condition of England in respect to the supply of grain for the food of the people cannot be less unfavorable, if the imports from foreign countries are disregarded, than that in which a province of India is placed in a time of famine. The true difference in the two cases is, that in England a very active and enterprising commerce has been established, involving the use of a large capital, by means of which the wants of the country are most closely watched and met as they arise. The foundation of such a commerce is without doubt to be traced to the advanced intelligence of the people as much as to their greater wealth, and to the far superior means of external and internal communication. An accurate knowledge of the real stock of food in the country, and of the quantity required to meet the wants of the people, must always be of essential value in leading to the establishment of a commerce of this sort on a satisfactory footing. In India unfortunately the means of obtaining such knowledge are singularly small, and there is hardly any other test for ascertaining the stock of grain remaining than the current price in the markets.

8. The publication of the prices of grain and other articles of food at short intervals has on former occasions been suggested, and this measure will again be worthy of adoption. In attending to this, all practicable precautions should be taken to ensure that the returns represent fairly the actual market rates of the commodities named. It is known that in many cases the official price currents have been very unreliable. Further, the movements of grain by the railway, or on the chief lines of road, or by water, so far as the information can be got without exciting suspicion of the motives of the Government, might also with great advantage be recorded and published at short intervals.

9. Passing next to the more detailed consideration of the system to be followed in giving relief, it may first be remarked, that so far as it is possible, a labor test should be insisted on. But it will be right to make a distinction between the able-bodied and the persons who are from any cause unfit for ordinary labor. It will by no means invariably follow that one labor test will be properly applicable to all persons alike. To require that those who cannot usefully be employed on public works should submit to such labor as a preliminary condition to receiving relief, is neither humane, nor expedient. As far as possible, those who are able to labor on public works should be separated from the remainder, and for the latter, relief might more suitably be provided in poor-houses organized on the sort of system adopted at Moradabad and other places in 1860-61. Persons relieved at poor-houses would be set to do whatever work was best suited to their habits or physical powers. Only in extreme cases would relief be given without some labor. The system of aiding the poorest class of females, of such social position that they cannot be induced to resort to a poor-house, which was adopted at Moradabad, may also be made to serve a very useful purpose.

10. On these subjects the following extract from the report by Mr. J. Strachey may be usefully added:—

It is not possible to look upon human suffering from an economical point of view alone. If we can save people from present starvation, we must do so, although the measures that we adopt may add to the difficulties of the rest of the community, and may bring with them evils which cannot be avoided. But the dispensers of public and private charity ought distinctly to acknowledge those evils, and strive to reduce them to a minimum. "The problem," as Mr. J. S. Mill says regarding Poor Laws, "is how to give the greatest amount of useful help with the smallest encouragement to undue reliance on it." Whether relief be given in the shape of simple charity, or in return for labor performed upon public works for the Government, the relief must be no greater than can be helped. It must be remembered that I am now assuming the existence of absolute famine and an actual deficiency of food. These conditions being granted, it is better, although it seems hard to say so, that we should give somewhat too little than too much.

The relief must never, even in times of less extreme pressure, be so lavish that the objects of our charity are placed in a better position than that held by those who are managing to support themselves by their independent exertions. Otherwise, the honest endeavours of the poor will be checked, and they will be encouraged to place their dependence on something far less really able to help them than their own determination. As the expenditure of money and of food increases, so will the prices of food continue to rise; the circle of distress will go on constantly widening; the poor who had not desisted from their labors, and who had not been tempted by the

hope of obtaining better wages on the Government works than they could obtain for themselves, will be compelled by the high price of food to abandon their own exertions for their own support. "The first and most essential of all conditions of relief," say the English Poor Law Commissioners, "is that the situation of the pauper, upon the whole, should not be made really or apparently so eligible as the situation of the independent laborer of the lowest class. As the condition of the pauper class is elevated, the condition of the independent class will be depressed, their industry impaired, their employment rendered unsteady, and its remuneration diminished. Such persons, therefore, are under the strongest inducements to quit the less eligible class of laborers, and enter the more eligible class of paupers."

The general principles upon which public charity ought to be afforded are equally applicable to the able-bodied and to the infirm. It is a great mistake to suppose, as people have often done during the present scarcity, that every person apparently unable to work is a fit object for charity. The evils of indiscriminate private charity are universally admitted, but indiscriminate public charity is far worse; and it is the more injurious because it is the public recognition of a false and mischievous principle.

The rule laid down by the Government that the able-bodied poor shall receive relief only in return for labour was evidently the first essential of a reasonable system. But it is often difficult in practice to draw the line between those who are and those who are not able-bodied. Public works, undertaken by the Government, cannot, whatever be the scale of operations, give relief to all who require it. This is specially the case when, as at the present time, the chief sufferers belong to the non-agricultural classes. Many are incapable of working on roads and canals, who would be able to perform a fair amount of labour if employed in the ordinary occupations to which they have been accustomed. Many are physically unfit for out-door work, who are well able to perform work of a sedentary kind. This is the case with great numbers of women, and especially with those who have young children from whom they cannot be separated. It is useless to attempt to make people perform work for which they are altogether unfit. Not only is the result failure with respect to them, but they render it difficult to obtain a fair amount of work from the others associated with them, who are really able, and who might be willing to work. If, for example, there be a hundred applicants for relief, all of whom are capable of performing some kind of work, and out of this number only fifty are really fit for employment in road-making, only those fifty should be so employed. The remaining fifty ought to be employed in some other way; even if the employment be unprofitable, the loss will usually not be so great as under the other system. In times, therefore, of great distress, it becomes necessary, in addition to undertaking public works, to establish properly organized poor-houses, which shall be at the same time, strictly speaking, work-houses. Owing to the extreme cheapness and simplicity of the mechanical appliances required for carrying on the commoner Indian manufactures, this is not so difficult as it might be supposed to be.

11. The able-bodied who are fairly fit for out-door labour should alone be employed on public works. When it becomes necessary to undertake such works for the relief of the people on a great scale, they should, as far as possible, be set on foot, not in the districts where the distress is greatest, but in some other localities better provided with food. On this subject Mr. J. Strachey further remarks:—

It must be admitted that the importation of food in quantity sufficient to supply completely a deficiency of production is, in times of actual famine, impracticable in most of the districts of these Provinces. The only thing that remains which can afford relief is a reduction of consumption. We have in possession a certain limited quantity of food, and the object to be aimed at is that this food shall be economized to the utmost, and be made available for the greatest possible number of persons.

Up to a certain point this object is gained by mere increase in the price of food, but this increase, although in itself necessary and beneficial, involves, when it becomes extreme, the starvation or misery of thousands. The difficulties of the position are great. On the one hand there are multitudes of people who must be saved, if it be possible to save them. On the other hand, we have to bear in mind that while we are giving food to the starving, we are diminishing the general stock, and are adding to the difficulties of the rest of the community. The diminution of the number of consumers is the only efficient remedy which, under such circumstances, remains. And this, in countries dependent upon their own supplies, is one of the natural and universal remedies against famine. Where there are no proper means of communication, and the existing stock of food cannot be sufficiently increased by importations from without, the people who cannot get food at home remove themselves to places where food is obtainable. It is easier for them to go to the food than for the food to come to them. Famines are hardly ever universal through a great extent of country, and in India, as in other countries similarly situated, temporary emigration has always been, in times of difficulty, one of the chief modes of relief. When rain falls, and prospects improve, the people will not be long in returning to their homes. There is no danger that the number who remain will not be sufficient for the cultivation of the land meanwhile. The apprehensions that we sometimes hear expressed on this point are, I believe, quite unfounded. Particular estates may be injured by such emigration, but there is no danger that the country at large will suffer. There are, perhaps, no people in the world more attached to their homes than the people of this country, and if they do not return after their emigration to other quarters, it may safely be assumed that their position has been improved by the change. The question practically is whether people shall remain and die, or emigrate and live. Tens of thousands have, at the present time, answered this question rightly. There is hardly a village in some parts of these provinces from which many of the people have not emigrated to more fortunate districts.

All measures must be mischievous which tend to check this natural process of relief. Plans which are excellent in times of partial scarcity, when food can be obtained by paying for it, become inapplicable in times of actual famine. Thus, if the Government undertake great public works in a Province where the supply of food is insufficient, and into which the importation of food on a sufficient scale is impossible, the final results may probably be mischievous rather than useful. If they be undertaken on too large a scale, or if the wages offered be much more than sufficient to save people from starvation, the effect will be that the consumption of food instead of being checked will be stimulated; people who would otherwise have emigrated will be kept at home to increase the number of consumers; the supply of food being limited, the expenditure of money will cause prices to rise, and privation will be brought upon a higher class who might otherwise have escaped.

The relief afforded by the Government in the distressed districts ought, therefore, to be no greater than will preserve the people from actual starvation, and every encouragement to emigration should be given. Great public works should be undertaken in those parts of the country where no scarcity exists, and where the supply of food is not likely to run short. These works should be set on foot at the nearest points to the distressed districts at which these conditions can be fulfilled. It is almost unnecessary to add that other conditions have to be fulfilled also. The works, for instance, should of course be useful and remunerative works.

The certainty of obtaining work and food will act as a stimulus to emigration, and will draw away from the distressed districts those who are able to move. In cases of great emergency, the Government should do still more. It ought to take measures for assisting this voluntary emigration, by giving to the emigrants the means

of subsistence on the road. It may even become necessary to organize a system for the promotion and regulation of emigration, and for enabling people to return to their homes when the crisis has passed over. The necessity for such measures as this has not actually arrived. But it is possible that it may arrive, and even now it is important that the fact be borne in mind that every reduction in the number of consumers leaves more food available for those who remain.

12. The people employed on the special relief works should be brought together in such numbers as will admit of the most satisfactory direction of their labour to a really useful purpose. To undertake numerous operations widely diffused over the country will almost certainly result in the work done being worthless or nearly so. It is not intended to imply that minor works may not be properly and usefully carried out locally within the means of the district officers, or that such means may not properly be supplemented by the Government. To give local employment to the population on a scale beyond what has been customary in ordinary years may be very desirable and unavoidable, but to stimulate unnecessarily the collection of numbers of starving men by undertaking works of unusual magnitude, where no proper provision can be made for the supply of food, will only tend to exaggerate the evil.

13. The Local Governments should, therefore, at once proceed to consider what works can be carried out within their territories which shall give the best approach possible to a compliance with the above conditions. It may not be very easy to find occupation in suitable localities in districts free from the pressure of famine. But where this is not practicable, places should be selected to which the supply of food is comparatively easy, either by reason of the vicinity of the railway, a navigable river, or a good road. The Local Governments can best determine how this may be done, but the works that suggest themselves to the Governor General in Council as most likely to be suitable will be mentioned.

14. It is understood that the districts north of the Ganges are more favourably circumstanced than the rest of the North-Western Provinces. The earth-works of the projected line of railway which traverse these districts may, therefore, probably be selected as suitable for the purpose in view. Ten or fifteen miles of the line might be at once marked out in readiness for actual work, where its position can be fixed at once with certainty.

15. In Oudh there are also portions of the same line of railway, the earth-work of which could certainly be at once put in hand.

The projected canal from the Sardah, though still by no means matured in design, might also in case of pressure be made to afford the means of occupation. The general direction of the principal branches of the canal is fixed by the natural features of the country; and there would be no insurmountable difficulty in arranging for the work to be done so as to make sure that the depth and breadth of excavation now to be carried out should not exceed the dimensions which would eventually be fixed. The levels could be ascertained with sufficient accuracy for such operations in a comparatively short period of time.

16. In the districts between the Ganges and Jumna, the only project for a large work likely to be suitable, which is at all advanced, is that for the Futtahgurh Branch of the Ganges Canal. On the plan suggested for the Oudh Canals, this, too, could be partly executed.

There are certain projects for still-water navigable lines in connection with the Ganges Canal, which might also be pushed forward so as to be taken up at once.

The new canal on the right bank of the Jumna below Delhi, though it is probable that the districts through which it passes will suffer greatly if a serious famine occurs, may also be made to give useful occupation. On this canal it would seem to be expedient on the general grounds before stated to commence work at the two extremities near Delhi and Agra, to which places there is railway communication, and to arrange the dimensions of the excavations on the most exact data that can be obtained.

If sufficient progress has been made with the design for the canal from Betwa river in Bundelkund to admit of work being put in hand upon it, a commencement of the excavation on the main channel might be taken up in the manner before indicated.

17. The projected branch railway from Allygurh to join the Oudh and Rohilkund line might also probably be taken up, and the earth-work begun, without much difficulty. There seems to be no doubt that Allygurh will be the proper terminus on the East Indian Railway, and that the line should be directed to Moradabad. It could be laid out as far as the Ganges, and prepared for the reception of work-people. A prolongation of such a line to the south towards Muttra would also be likely to be eventually useful.

If the Company's Engineers and the Local Government are satisfied as to the proper way of laying out the main line of the Oudh and Rohilkund Railway, and if the levels have been ascertained, or can be indicated, some commencement of work might also be made on the Rohilkund side of the Ganges. The same remarks will apply to the line which is to connect the main Rohilkund line with the foot of the Kumaon hills.

Another possible line of railway, the earth-work of which could perhaps be set in operation, is a branch from Futtahgurh to the East Indian Railway, either direct to Etawah, or *via* Mynpoorie to some station higher up the line. Such a line would serve for the traffic from Agra or Allahabad, and would be preferable therefore to one from Cawnpoor. Should the

Lieutenant-Governor of the North-Western Provinces desire to commence work on such a line as a relief work, he is at liberty to do so when the necessary preliminary operations are completed to his satisfaction.

18. For the Punjab territories, some of the projects connected with the Western Jumna Canal may no doubt be made to serve for supplying occupation to a distressed population from the west of the Jumna. The Sirhind Canal will also be in a state which will admit of active operations being commenced upon it, and the line on which work was carried out could possibly be extended towards Ferozepoor or Puttiallah as occasion might seem to require.

19. The Governor General in Council is well aware that to undertake, at such short notice, any considerable part of such a series of works will call for very great energy on the part of the Public Works Department, and will be quite out of the question unless every available means of direction and supervision is applied to the task. It would be easier to allow minor works of secondary public utility to be put in hand locally than to organize the labour of the population on more important undertakings such as those which have been named. But it is very important that the utmost real good should be secured from the employment of the population. This employment and the relief of the people incapable of work will cause a heavy drain on the public finances, and it is incumbent on the Government to do all in its power to utilize, in the best way practicable, the labour which will be placed at its command, and to obtain the best possible equivalent for the outlay which it will have to incur.

20. The Local Governments and Administrations are, therefore, authorized to take what measures seem to them most suitable for disposing, to the best advantage, the engineering establishments under their orders for carrying out such preliminary operations as may, on mature consideration, appear to be best calculated to prepare for giving occupation to a distressed population on a large scale.

The number of officers and subordinates now employed on works of minor importance should be reduced to the utmost, and their places supplied, so far as is essential, by such means as can for the moment be best obtained. In military stations, officers of the army may be no doubt found who can carry on less important work for a few months; and where the occasion may arise, the services of civil officers may without hesitation be also made use of in like manner, or temporary establishments may be engaged.

All works which are not of emergent importance should be postponed to admit of provision being made for the employment of the population in the most useful way possible. This should not, however, be interpreted to signify that any large work now going on, such as the construction of the new barracks, should anywhere be suspended. Such works will continue to be of much service in giving employment, but it will be important to economize the means of supervision as much as possible.

21. For the suggested railway works, the Local Governments and Administrations should not hesitate to solicit the co-operation of the Railway Companies' officers, which, so far as the circumstances of their more regular occupation will admit, the Governor General in Council feels assured the Agents of the Companies will readily sanction.

All railway works to be undertaken for the relief of the population should, unless the Railway Company concerned should otherwise desire, be carried out in the first place at the cost of the Government. Work, under the circumstances contemplated, is likely to cost more than in ordinary times, and it will therefore be but just that a Railway Company should be called upon to pay no more than the ordinary price for the work done. It may, however, be hoped that the Railway Engineers will be made available for the supervision of such work to the extent that is practicable.

22. Wherever works are thus taken up under the Public Works Department or Railway Engineers, it will not be difficult to ascertain beforehand the probable quantity of work to be done, and the number of persons who can conveniently be employed in each locality. With this information the necessary arrangements for distributing the population to be relieved to the different works can be determined, and the system of providing them with food matured.

23. It should be the aim of the Local Governments and Administrations in these operations to comply, as far as circumstances will admit, with all the ordinary rules regarding the disbursement of funds and accounting for them. In the larger works which, under ordinary conditions, call for the sanction of the Government of India, where a general approval has not already been given to the scheme, an outline or approximate statement of the contemplated operation and its cost may be furnished before work is actually begun. As regards the irrigation works, it will be desirable to obtain a preliminary approval of the general plan of operations from the Inspector General of Irrigation Works, who is likely to remain in the North-West Provinces or the vicinity till end of the year.

24. But the Governor General in Council while thus expressing his desire that these precautions should, as far as possible, be attended to, will not withhold from the Local Governments and Administrations the power of acting at once on their own judgment, in every case in which it shall seem to them essential to order the commencement of any work for the purpose of giving occupation to the people. It is the wish of the Government of India

12 EXTRA SUPPLEMENT TO THE GAZETTE OF INDIA, SEPTEMBER 1, 1873.

that work shall be everywhere offered to the population as soon as the grant of relief in such a manner is thought by the local authorities to be necessary. It is most expedient that such help should be offered before the population becomes seriously affected by want, and no formalities or risk of eventual loss on the operations put in hand, should be allowed to stand in the way of thus giving relief to any section of the community which seems to be seriously suffering from the high price of food.

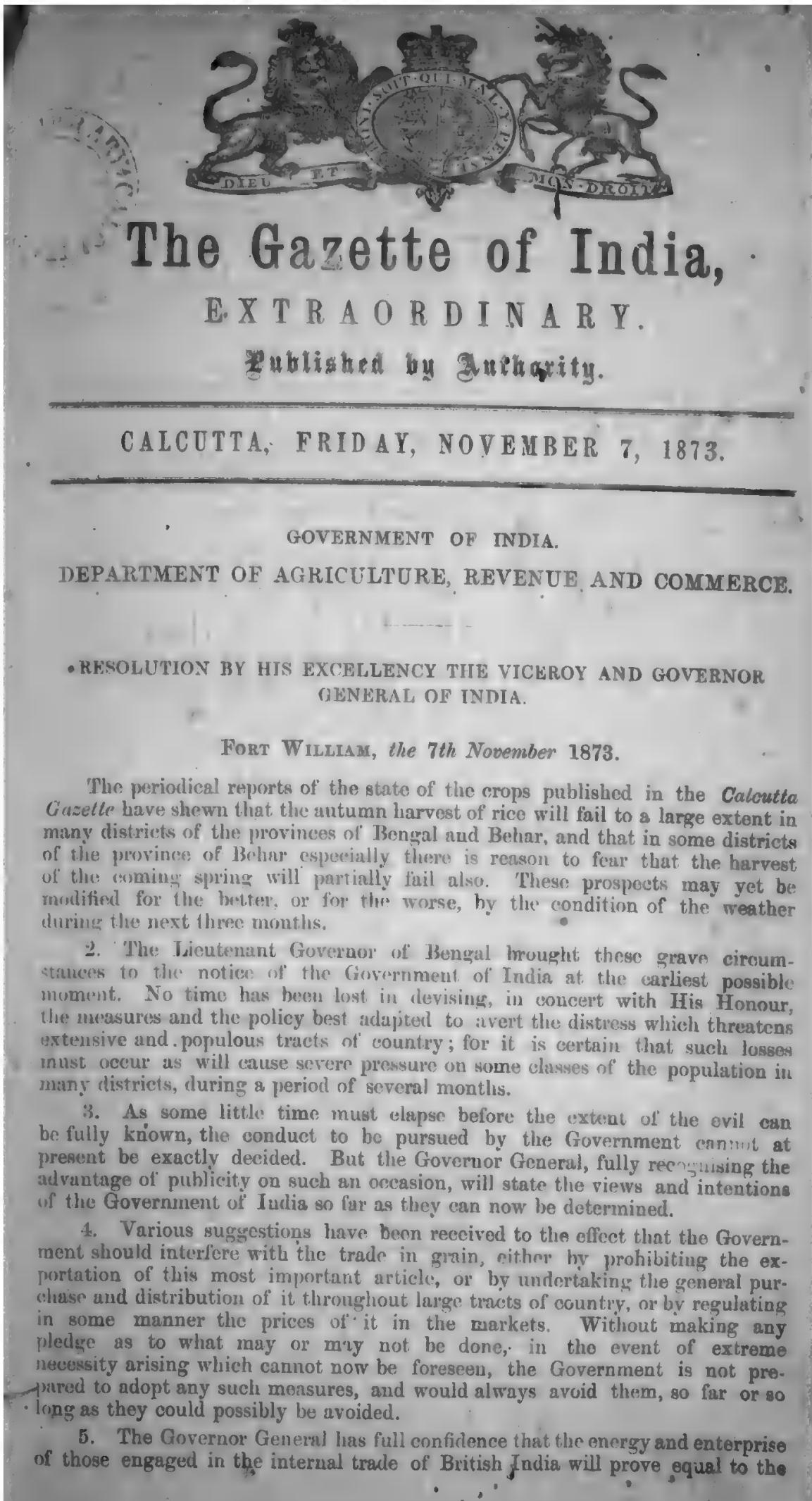
25. It is not thought necessary to dwell at length on other matters relating to the manner of dealing with the emergency which may arise. In the North-Western Provinces, the orders given by the late Sir G. Edmonstone, the Lieutenant-Governor in 1860-61, will serve as excellent models to be followed. These and other papers of interest will be found in an Appendix to this Resolution. For convenience of reference, a memorandum approved by the Governor General in Council is also annexed, embodying the chief points to which attention has, on other similar occasions, been directed, or which the Government of India now thinks of importance.

26. It only remains for His Excellency in Council to add that the Government will be prepared to contribute in aid of local relief a sum equal to the amount of private subscriptions for that object, in every case in which the Local Government or Administration shall recognize the propriety of such a course.

Bengal.
N.-W. Provinces.
Punjab.
Oudh.
Central Provinces.

ORDERED, that this Resolution be recorded both in the Home and Public Works Departments, and forwarded to the Local Governments and Administrations noted in the margin for information and guidance.

C. H. DICKENS, *Colonel, R.A.,*
Secretary to the Government of India.



GOVERNMENT OF INDIA.

DEPARTMENT OF AGRICULTURE, REVENUE AND COMMERCE.

• RESOLUTION BY HIS EXCELLENCY THE VICEROY AND GOVERNOR
GENERAL OF INDIA.

FORT WILLIAM, *the 7th November 1873.*

The periodical reports of the state of the crops published in the *Calcutta Gazette* have shewn that the autumn harvest of rice will fail to a large extent in many districts of the provinces of Bengal and Behar, and that in some districts of the province of Behar especially there is reason to fear that the harvest of the coming spring will partially fail also. These prospects may yet be modified for the better, or for the worse, by the condition of the weather during the next three months.

2. The Lieutenant Governor of Bengal brought these grave circumstances to the notice of the Government of India at the earliest possible moment. No time has been lost in devising, in concert with His Honour, the measures and the policy best adapted to avert the distress which threatens extensive and populous tracts of country; for it is certain that such losses must occur as will cause severe pressure on some classes of the population in many districts, during a period of several months.

3. As some little time must elapse before the extent of the evil can be fully known, the conduct to be pursued by the Government cannot at present be exactly decided. But the Governor General, fully recognising the advantage of publicity on such an occasion, will state the views and intentions of the Government of India so far as they can now be determined.

4. Various suggestions have been received to the effect that the Government should interfere with the trade in grain, either by prohibiting the exportation of this most important article, or by undertaking the general purchase and distribution of it throughout large tracts of country, or by regulating in some manner the prices of it in the markets. Without making any pledge as to what may or may not be done, in the event of extreme necessity arising which cannot now be foreseen, the Government is not prepared to adopt any such measures, and would always avoid them, so far as long as they could possibly be avoided.

5. The Governor General has full confidence that the energy and enterprise of those engaged in the internal trade of British India will prove equal to the

occasion, and that supplies (excepting under the conditions to be noticed hereafter) will generally be at hand to meet any deficiencies of grain in different parts of the country.

6. It has been officially reported that on the very first appearance of the prospect of a short autumn harvest, large quantities of grain were imported into the trade centres of Behar, and much evidence has since been received to the effect that grain is being despatched by the merchants without any delay or hesitation to the principal marts in the districts likely to be affected by scarcity. The Governor General is sanguine that the same commercial activity will prevail wherever it is needed, and that it will become greater and greater according as the demand for it may be intensified.

7. It has, however, been proved, by the sad experience of famines in India, that exceptional circumstances may arise whereby numbers of persons may be exposed to danger of starvation, or to disease arising from want of food. In all such cases, where human life may be at stake, the Government and its officers will do their utmost to apply the most effectual remedy that may be practicable, and will strive, by forethought and management, to prevent the occurrence of any such misfortunes.

8. There are certain respects and particulars in which the Government, while abstaining from interference with the ordinary course of trade, can render assistance towards mitigating the effects of scarcity.

9. In the first place the opportunity will be taken to prosecute with vigour the execution of public works in those districts where large numbers of persons are, or will soon be, in need of employment or in distress.

10. Orders have been given by the Government of India to enlarge the operations on the canal from the river Soane, and to begin the Northern Bengal State Railway in anticipation of the sanction of the Secretary of State, for both which works plans and estimates are ready, which works, too, will be carried on in the midst of the districts where want of employment must be most felt, and are calculated to benefit the country generally, and especially to prevent or lessen the occurrence of scarcity in future.

11. The Lieutenant Governor of Bengal has been authorized to begin immediately such public works (in addition to those already in progress) as can be usefully undertaken in distressed districts, whether from funds granted by the Government of India, or from provincial funds, or from local resources.

12. The requirements for labour on all these public works will afford employment to large numbers who, by reason of the cessation or the slackness of the usual agricultural operations in a season of scarcity, may be thrown out of work.

13. Thus considerable bodies of men will be congregated on or near the works at a distance from their homes, and often in localities remote from the established markets. It will be necessary, therefore, that sufficient supplies of food be collected for their sustenance. If the accumulation of such supplies be left to the ordinary course of commerce, special pressure will be put on the grain trade in certain localities at the very time when all its resources are being taxed for the general supply of the province or district. And if the wages were to be paid in cash to so large an aggregate of labourers, an extraordinary rise of prices would be created by the action of Government thereby aggravating the crisis in districts already placed in critical circumstances, and so far counteracting the benefit which the works were intended to secure, namely, the mitigation of the effect of the scarcity.

14. Now, in regard to those public works carried on under the orders either of the Supreme Government or of the Local Government, the State will be in the position of an employer of labour on an unusually large scale, and is justified in doing that which all other employers do, namely, selecting the mode of remunerating its work-people most acceptable to them and most suitable to the surrounding circumstances. Such mode of remuneration will generally be payment in kind, that is, in food grain. For this particular purpose, then, sufficient supplies of grain will be purchased and laid in both by the Government of India and by the Local Government

for the public works under their charge respectively. These supplies will be obtained in such a manner as to interfere as little as possible with the trade in grain and with the supplies of food ordinarily available for consumption in the neighbourhood of the works, or within the area of the distressed districts. The Governor General relies on the carefulness of the Local Government in making provision with this view. For the works to be carried on from imperial funds, the Supreme Government has resolved, in regard to its liability for the maintenance of the labourers, to arrange for obtaining supplies from provinces beyond the limits of the territories affected by the failure of the crops in Bengal and Behar. The Government of Madras and the Chief Commissioner of British Burma have accordingly been requested to make purchases gradually, through the agency of the trade, for this purpose.

15. The future arrangements for the supply of food grain for the labourers on the public works will be strictly limited according to the requirement and to the purpose in view.

16. Besides the works just described, which are to be undertaken by the Government, there are many public improvements which can be undertaken, either by corporations or other bodies, such as municipalities and trusts. For loans of money from the Government treasury to such corporations ample provision is made by Act XXIV of 1871 (the Local Public Works Loan Act). In some cases, under the rules recently promulgated in accordance with the Act, the Lieutenant Governor is competent to make the loans on his own authority from funds which have been allotted for that purpose by the Government of India. In those cases where, under the rules, the sanction of the Government of India is necessary, any judiciously matured project, any well considered application, which may be recommended by the Local Government will meet with the immediate approval of the Government of India. If the rules in respect to preliminary enquiry and the like shall be deemed by the Lieutenant Governor to cause delay which may be prejudicial at a critical time, His Honor is authorized to relax them temporarily.

17. For agricultural improvements the Land Improvement Act (XXVI of 1871) provides for advances of money being made by Government to any landlord or tenant desiring to make an improvement in any land of which he is in possession or occupation. The improvements specified in the Act, that is, wells, tanks, and other works for the storage and distribution of water, works for draining, reclaiming, clearing, and enclosing lands, are well suited for employing the labour which may be unemployed in the villages by reason of the stoppage of ordinary work in the fields. The Governor General earnestly hopes that many landlords will take advantage of the provisions of the Act. The rules under this Act recently promulgated by the Local Government with the sanction of the Government of India contain many precautionary provisions which are necessary in ordinary times, but which at a time of urgency might cause undesirable delay. The Lieutenant Governor is authorized to make such relaxation of the rules as His Honor may deem advisable under the circumstances of the districts affected by the drought.

18. In reference to the local works, the Governor General desires that the levy of the road cess may be postponed in any district or portion of a district where the Lieutenant Governor may consider that the cess-payers are in distress. It is to be remembered that in those districts which are not so severely affected the proceeds of the road cess will afford the means of usefully employing any surplus labour that may be thrown upon the market.

19. In the next place the Government may contribute something towards facilitating the transport of grain in the interior of the country. The Agents, therefore, of the Guaranteed Railway Companies, whose lines traverse Bengal and Behar, have been authorized to reduce by one-half the rates charged for the carriage of grain despatched to the districts affected by scarcity, the Government undertaking to reimburse the Companies for the difference thus caused in the traffic receipts. The precedent is followed which was established by the adoption of a similar course in 1869.

20. The Governor General is sure that the private steam-flotillas on the principal rivers, and the native craft which is so abundant throughout the river

system of Bengal, will bear a most useful part in the conveyance of grain to the places where it is urgently needed.

21. In those places where the means of water-carriage do not exist, the grain-traders must mainly depend on the country carriage. There may, indeed, be ground for apprehension that, as the dry season advances, mortality beyond the average must arise among the draught cattle. This subject will doubtless receive the anxious consideration of the local Government and of its officers. Every aid that can be afforded by the Commissariat or other public departments will be rendered; and enquiries are being made as to the practicability of constructing tramways in the distressed districts.

22. Should the distress become severe, and should the worst anticipations be realized, the Government will assist in the formation of relief committees, and in the organization of a system of relief for those who, despite all the operations of trade, may be threatened with death or disease from want of food. The Governor General is sure that the private benevolence, which has always been conspicuous in India, will be evoked on this occasion, according as the need for its exercise shall become apparent. A central relief committee will, as soon as the Local Government shall consider it to be necessary, be formed at Calcutta as the capital of the provinces under the jurisdiction of the Lieutenant Governor of Bengal. To this committee will be entrusted the general administration of the funds for relief which may be received from private sources and from the Government, and the distribution of those funds among the relief committees which the Lieutenant Governor will establish in the districts affected by scarcity. The district relief committees will distribute assistance to the distressed, either in cash or in grain, or in prepared food, according to the instructions which they may receive from the Local Government. Any purchases of grain which may be necessary will be made either by the central committee or by the district committees. If the committees lay in supplies of grain they will be instructed to do so in the manner best calculated to avoid undue interference with the ordinary course of trade, or with the stores available for consumption in the neighbourhood.

23. The Governor General relies upon the Lieutenant Governor to take steps for organizing these district and local committees in seasonable time, and in sufficient number, so that the measures for relief shall be far reaching and comprehensive in proportion as the distress may become widespread. Whatever application His Honor may make for assistance from the ranks of the public service, with a view to effectively constituting these committees, will receive immediate attention from the Government of India.

24. Inasmuch as the prevalence of want may give rise to many forms of epidemic disease, the augmenting and the reinforcing of the medical staff of all grades in the afflicted districts will be of primary importance. Any assistance which the Lieutenant Governor may require in this respect from the Government of India will be duly accorded.

25. The Governor General is sure that non-official gentlemen, both European and Native, resident in the districts affected by scarcity, will come forward to serve on the relief committees, and will render that assistance which has proved so valuable on former occasions of a like nature.

26. Furthermore, non-official gentlemen, European and Native, zemindars, landlords, planters and others may at once render much service by undertaking the provision and distribution of grain, in localities where, from the difficulty of transport, the absence of traders, or other local circumstances, food cannot, during the period of scarcity, be obtained by the people. In such cases, the Government will be prepared to grant advances of money to non-official gentlemen who may undertake to import grain from a distance, and to distribute it at prices to be regulated according to the circumstances of the case. The condition that such grain be imported from distant places, so that the ordinary operations of the local trade may not be interfered with, must be observed. Accounts of the advances will be submitted to, and passed by the Local Government; and any loss or charge which may arise upon the operations will, of course, be borne by the State.

27. The Governor General is confident also that many landholders, recognising the duty towards their tenants, their dependants, and their destitute neighbours, which is morally imposed upon them by the possession of property, will, of their own accord and from their own resources, dispense relief in the manner which they may deem to be most effectual.

28. The Governor General feels assured that the Lieutenant Governor is well aware of the necessity for preparing the local arrangements for relief beforehand, that is, before the emergency shall have actually befallen the districts in question, before the intensity of the trouble shall have begun to be felt, so that the distress may not attain such proportions that the local authorities cannot adequately deal with it, or make such progress that they cannot overtake it.

29. Hereafter, as the season shall draw near for the sowings of the next harvest, the Government will be prepared to authorize advances of money to landlords or tenants for the purchase of seed-grain wherever the Lieutenant Governor may consider such a measure to be desirable.

30. It is to be hoped that, in the populous tracts visited or threatened by distress, unemployed labourers may emigrate to places where food is in comparative plenty, where a special demand exists for their labour, where culturable waste abounds, such as the tea-districts, the Doars, the provinces of Assam, and of British Burma. If it be found possible for the Government to facilitate such emigration, directly or indirectly, the Governor General will be glad to receive any suggestions which the Lieutenant Governor may be able to make.

31. Having given such instructions as seem to be called for at the present time, the Governor General requests that the Government of Bengal will transmit periodically at short intervals to the Government of India full reports on the state and prospects of the crops, the stock of food, so far as it can be ascertained, the public works in progress, the relief operations, if any, and all other circumstances relating to the scarcity. Together with these reports there should be forwarded the opinions of the district officers, formed on the most recent data obtainable. The Governor General is satisfied that these opinions will be given fully, unreservedly, and promptly, even though time may not have admitted of their being precisely elaborated, and though they may be subject to subsequent correction and verification. Full information on these matters will be published from time to time.

32. Lastly, the Governor General places full reliance upon the foresight and the energy of the Lieutenant Governor of Bengal to provide for and to cope with the difficulties which may spring from the drought and scarcity; and upon the zeal and experience with which His Honor's efforts will be seconded by the officers of all grades and branches of the public service. He feels the responsibility which devolves on the Government of India under the present circumstances, and he trusts that with God's blessing the measures to be adopted will prove successful in averting, so far as may be humanly possible, the calamitous effects of the drought.

By order of His Excellency the Viceroy and Governor General.

R. B. CHAPMAN,
Secretary to the Government of India.



The Gazette of India, EXTRAORDINARY. Published by Authority.

CALCUTTA, THURSDAY, NOVEMBER 27, 1873.

HOME DEPARTMENT.

NOTIFICATION. PUBLIC.

No. 3 C.

Camp Agra, the 24th November 1873.

ORDER IN COUNCIL.

THE GOVERNOR GENERAL IN COUNCIL hereby declares that it is expedient that the Governor General shall visit certain parts of India unaccompanied by his Council. In the exercise of the powers conferred by the Indian Councils' Act, Section 6, the Governor General in Council hereby nominates the Hon'ble Sir Richard Temple, K. C. S. I., to be President of the said Council during the time of such visit, and the powers of the Governor General in assemblies of the said Council during the time of such visit shall be reposed in the said Sir Richard Temple, except that of assenting to, or withholding his assent from, or reserving for the signification of Her Majesty's pleasure, any Law or Regulation as provided in the 24 and 25 Victoria, Cap. 67, and the Governor General in Council by this order made for that purpose authorizes the Governor General alone to exercise all or any of the powers which may be exercised by the said Governor General in Council in every case in which the said Governor General may think it expedient to exercise the same, except the power of making Laws or Regulations; and under the provisions of Section 9 of Act 24 and 25 Victoria, Cap. 67, the Governor General in Council hereby appoints His Excellency's Council to assemble at Calcutta in the jurisdiction of the Lieutenant Governor of Bengal on Thursday, the 27th instant.

C. U. AITCHISON,
*Secretary to the Government of India,
with the Viceroy.*



The Gazette of India,

EXTRAORDINARY.

Published by Authority.

CALCUTTA, TUESDAY, DECEMBER 9, 1873.

MILITARY SECRETARY'S OFFICE.

NOTIFICATION.

Calcutta, the 9th December 1873.

His EXCELLENCY THE VICEROY AND GOVERNOR GENERAL will hold a **Levée** at Government House on Saturday, the 20th December 1873, at 4 P. M.

Gentlemen attending the **Levée** are requested to bring two Cards, with their names legibly written ~~on each~~, one Card will be delivered ~~on entering Government House~~, the second to the Aide-de-Camp in waiting at the time of presentation.

Gentlemen purposing to attend the **Levée** are requested to send their Cards to the Aide-de-Camp in waiting on or before Wednesday, the 17th December 1873.

Gentlemen who have not already been presented at the Court of St. James, or at Government House, are requested to send their Cards, with their addresses and the names of the Gentlemen by whom they are to be presented, to the Aide-de-Camp in waiting by the 17th December 1873, after which date no Cards will be received.

The Carriages of Gentlemen (except such as have the Private Entrée) attending the **Levée** will enter by the North-East Gate, set down at the foot of the Grand Staircase, and pass out by the North or North-West Gate.

By Command,

Wm. EARLE, Colonel,

Mil. Secy. to the Viceroy.



The Gazette of India, EXTRAORDINARY. Published by Authority.

CALCUTTA, THURSDAY, NOVEMBER 13, 1873.

PRIVATE SECRETARY'S OFFICE.

NOTIFICATION.

Calcutta, the 13th November 1873.

His EXCELLENCY the VICEROY and GOVERNOR GENERAL left the Presidency last night, and is expected to arrive at Agra on the morning of the 14th instant.

By Command,

R. B. CHAPMAN,
for the *Private Secretary to the Viceroy.*



The Gazette of India,

EXTRAORDINARY.

Published by Authority.

CALCUTTA, SATURDAY, DECEMBER 13, 1873.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First Publication.]

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 13th December 1873, and was referred to a Select Committee with instructions to make their report thereon in a week:—

No. 22 of 1873.

A Bill to declare the true meaning of Acts X of 1859, XIV of 1863, and XXII of 1872.

WHEREAS, by Act XIV of 1863, section eight, Preamble, the Local Government of the

North-Western Provinces was empowered to invest any officer employed in making or revising settlements of the land-revenue with the powers of a Collector as described in Act X of 1859, for the decision of suits arising within the local limits of the jurisdiction assigned to such officer, of the nature mentioned in section twenty-three of the same Act, or in the said Act XIV of 1863, while such officer is so employed:

And whereas, in the year 1863, the Local Government resolved that all Collectors, Assistant Collectors and Deputy Collectors at any time employed in making or revising settlements, should, during such employment, be invested with the powers described in section eight of Act XIV of 1863, and such officers have in fact from that time exercised such powers from the date of their employment in the duties aforesaid, and large numbers of suits of the nature mentioned in the same section have been heard and decided by such officers notwithstanding that their employment commenced subsequently to the year 1863, and notwithstanding that the Local Government may not have expressed their intention to invest them with the said powers otherwise than by appointing them to such employment.

And whereas it has recently been ruled that Deputy Collectors whose employment in settlement-work commenced subsequently to the twenty-first day of April 1863, have not been invested with the said powers:

And whereas, by Act X of 1859, section one hundred and fifty, it is enacted that all the powers vested in the Collector by the preceding sections of that Act may be exercised by any Deputy Collector in cases referred to him by a Collector; and in all cases without such reference, by any Deputy Collector placed in charge of any sub-division of District;

And whereas, by section ten of Act XIV of 1863, it is enacted that if a suit for enhancement of rent be brought before any officer empowered under section eight of that Act to hear the same, such suit shall be heard and determined by such officer, notwithstanding that no notice of enhancement shall have been served under section thirteen of the said Act X of 1859 on the party from whom such enhanced rent is claimed: and that in such case the statement of claim should set forth the grounds on which such enhancement of rent is claimed:

And whereas, by Act XXII of 1872, it was enacted that all Deputy Collectors and all other persons theretofore or thereafter invested with all or some of the powers of Deputy Collectors for the purposes of Acts X of 1859 and XIV of 1863, should be deemed to have been or to be (as the case might be) Deputy Collectors in charge of sub-divisions of districts within the meaning of the same Acts, or Assistants to Collectors invested with the powers of Deputy Collectors in such charge: and it was also enacted that all suits preferred and applications made to, and orders made and acts done by, such Deputy Collectors and other persons in the exercise of such powers should be deemed to have been and to be as duly preferred, made and done as if the said Deputy Collectors and other persons had been Deputy Collectors in charge of sub-divisions of districts within the meaning of the same Acts:

And whereas, by force of the said Acts, all Deputy Collectors in the North-Western Provinces have ever since the passing of Act X of 1859, been of like authority with Deputy Collectors in charge of sub-divisions, and, as such, have had jurisdiction to hear all suits of the nature mentioned in section twenty-three of that Act and in Act XIV of 1863, and all Collectors have had and have exercised very largely the power of referring to Deputy Collectors cases brought before themselves.

And whereas, since the passing of Act XXII of 1872, it has been held that a Deputy Collector not invested with powers under section eight of Act XIV of 1863, has not any jurisdiction to hear a suit of the nature mentioned in section twenty-three of Act X of 1859:

And whereas it has also recently been held that the said Act XXII of 1872 has no operation in cases in which a decision has been delivered contrary to the true meaning of the said Acts X of 1859 and XIV of 1863, as declared in Act XXII of 1872, but prior to the passing of Act XXII of 1872:

And whereas, ever since the passing of Act XIV of 1863, officers invested with the powers of Collectors under section eight of that Act have been in

the habit of exercising that power which is vested in Collectors by section one hundred and fifty of Act X of 1859, and of referring to Deputy Collectors employed as, aforesaid suits of the nature mentioned in section eight of Act XIV of 1863 for the purpose of having such suits heard and decided by such Deputy Collectors, and great numbers of suits have been so heard and decided:

And whereas it has recently been held that officers engaged in making or revising settlements, and invested with the powers of Collectors under section eight of Act XIV of 1863, have not the power of referring suits to Deputy Collectors; and also that, if a suit for enhancement of rent be brought before such an officer, he is bound by section ten of Act XIV of 1863 to hear and determine it in person:

And whereas, by the effect of such holdings, great numbers of decisions in suits of the kind mentioned in section eight of Act XIV of 1863 have become open to question, and for the quieting of titles, and the avoidance of litigation, it is necessary that the validity of such decisions should be affirmed, and that the meaning of the said Acts should be declared:

And whereas it is apprehended that other objections may be made to the authority of officers who have decided suits of the nature mentioned in Act XIV of 1863, and it is expedient that such decisions should not be impeached for any defect in such authority;

It is hereby enacted as follows:—

1. All Collectors, Assistant Collectors and Deputy Collectors under Regulation IX of 1833, employed in making or revising settlements, have been, and are, and are intended to be, invested with the powers described in section eight of Act XIV of 1863 during the term of such employment.

2. By section one hundred and fifty of Act X of 1859, it was intended, to refer cases to Deputy Collectors and has always been the law, that Collectors should refer to Deputy Collectors such of the cases brought before themselves as they think fit.

3. By section eight of Act XIV of 1863, it was intended that when the officers therein mentioned have been invested with the powers thereto mentioned, they should have, and it has always been the law that they have had, the whole, and not a portion only, of such powers, and in particular the power of reference conferred on Collectors by Act X of 1859, section one hundred and fifty.

4. The meaning of section ten of Act XIV of 1863 was, and has always been, that in the suits therein mentioned the want of such notice as therein mentioned shall not be a bar to the progress of the suit, and not that the suits therein mentioned must be heard and decided by the same officer from the beginning to the end.

5. All suits heard and decided by any officers in pursuance of the said Acts and of the intentions to be deemed properly of the said Local Government as herein explained, have been heard and decided by proper authority, and the decisions given in such suits are valid decisions, subject only to such appeals as are by law provided.

6. No decision made by any Collector, Assistant Collector, Deputy Collector or other officer purporting to act under the provisions of the said Acts in certain suits validated.

sions of Act X of 1859 or Act XIV of 1863 in any suit of the nature mentioned in section twenty-three of Act X of 1859 or in Act XIV of 1863 shall be impugned or deprived of effect by reason of the objection that such officer did not possess the jurisdiction legally necessary for deciding the suit, but all such decisions shall be dealt with by every Appellate Court as if they had been made by a tribunal possessing the authority to entertain and decide the suit.

7. Every suit instituted, or question arising, under Act X of 1859 or Act XIV of 1863, and which comes before any Court of Justice, shall be decided in accordance with this Act, and in accordance with Act XXII of 1872, at whatever time such suit may have been commenced, or such question may have arisen, and at whatever time any decision may have been delivered affecting such suit or question.

8. In construing the said Acts, and in deciding on the validity of judicial proceedings thereunder, all Judges and Courts of Justice shall have regard to the practice which has actually prevailed, and shall also, in the absence of evidence or clear law to the contrary, presume that what purports to have been done by public authority has been rightly done.

9. This Act extends only to the territories under the government of the Lieutenant-Governor of the North-Western Provinces, and shall come into force at once.

STATEMENT OF OBJECTS AND REASONS.

The High Court of Judicature for the North-Western Provinces has recently ruled—

(a) that Deputy Collectors, whose employment in settlement-work commenced after the 21st April 1863, have not been invested with the powers described in Act XIV of 1863, section eight:

(b) that a Deputy Collector not invested with powers under the same section, has no jurisdiction to hear suits of the nature mentioned in Act X of 1859, section 23:

(c) that Settlement Officers invested with the powers of Collectors under that section, have not the power which Collectors possess of referring suits to Deputy Collectors, and that, if a suit for enhancement of rent be brought before such an officer, he is bound by Act XIV of 1863, section ten, to hear and determine it in person: *Punchum Singh v. Musamut Hoomut-oon-nissa*:

(d) that Act XXII of 1872 has no operation in cases in which a decision has been delivered contrary to the true meaning of Acts X of 1859 and XIV of 1863, but prior to the passing of Act XXII of 1872, by which that meaning was declared (*Buldeo v. Lutchmun*, 5 N. W. P. High Court Reports 108).

The effect of these rulings is to render questionable great numbers of decisions in suits of the nature mentioned in Act XIV of 1863, section eight; it is expedient to quiet titles and preclude litigation; and for these reasons it is necessary to affirm the validity of these decisions, and to declare the meaning of the above enactments. This, briefly, is the object of the present Bill, which has been prepared at the desire of the Local Government.

CALCUTTA, } A. HOBHOUSE
The 10th December 1873. }

WHITLEY STOKES,
Secy. to the Govt. of India.



The Gazette of India, EXTRAORDINARY. Published by Authority.

CALCUTTA, MONDAY, DECEMBER 22, 1873.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[First Publication.]

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 22nd December 1873 and is hereby promulgated for general information:—

ACT NO. XVIII OF 1873.

THE NORTH-WESTERN PROVINCES RENT ACT, 1873.

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FIRST SCHEDULE.—Forms.

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An Act to consolidate and amend the Law relating to the recovery of Rent in the North-Western Provinces.

WHEREAS it is expedient to consolidate and amend the law relating to the recovery of Rent in the North-Western Provinces of the Presidency of Fort William in Bengal; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title.

1. This Act may be called "The North-Western Provinces Rent Act, 1873."

It extends in the first instance to the territories Local extent for the time being under the government of the Lieutenant Governor of the North-Western Provinces,

except those specified in the second schedule hereto annexed. But the Local Government may, by notification in the official Gazette, extend the whole or any part of this Act to all or any of the territories so excepted.

Save as provided by sections one hundred and seventy-one and one hundred and seventy-two, nothing herein contained applies to land for the time being occupied by dwelling-houses or manufactories, or appurtenant thereto.

Commencement. This Act shall come into force on the passing thereof.

2. Act No. X of 1859 (*to amend the law relating to the recovery of Rent in the Presidency of Fort William in Bengal*), Act No. XIV of 1863 (*to amend Act X of 1859*), and Act No. XXII of 1872 (*to explain and amend Act No. X of 1859*) are hereby repealed. But such repeal shall not legalize any practice which, immediately before the passing of this Act, was unlawful.

And all rules and orders now in force and made Rules and orders now under any of the Acts hereby in force. repealed shall, so far as they are consistent herewith, be deemed to have been made hereunder.

All proceedings commenced under any enactment Proceedings heretofore hereby repealed shall be deemed to have been commenced under this Act, except where a decree has been made or an appeal presented: Provided that no proceeding relative to the enhancement of rent shall be deemed to have been commenced before the passing of this Act, merely because the landholder has served a notice under section thirteen of Act No. X of 1859, or because the tenant has contested his liability to pay the enhanced rent, by complaint of excessive demand of rent, under sections fourteen and twenty-three of the same Act.

Illustration (a) to the Indian Penal Code, section nineteen, and Act No. XI of 1865, section fifty-two, shall be read as if, for "Act X of 1859," the words and figures, "the North-Western Provinces Rent Act, 1873" were substituted. And section fifteen of Act No. XVIII of 1871 (*for the levy of rates on land in the North-Western Provinces*) shall be read as if, for "section twenty-three of Act No. X of 1859, and in section one of Act No. XIV of 1863," the words and figures "section ninety-four of the North-Western Provinces Rent Act, 1873," were substituted, and as if, for "Act No. X of 1859 and Act No. XIV of 1863," the words and figures "the North-Western Provinces Rent Act, 1873," were substituted.

3. In this Act, unless there be something repugnant in the subject or context—

'Mahál.' (1.) 'Mahál' means—

(a) any local area held under a separate engagement for the payment of land-revenue, and for which a separate record of rights has been framed;

(b) any local area of which the revenue has been assigned or redeemed, and for which a separate record of rights has been framed:

(2.) 'Rent' means whatever is to be paid, delivered or rendered by a tenant on account of his holding, use or occupation of land :

(3.) 'Landholder' means the person to whom a 'Landholder' tenant is liable to pay rent :

'Sir-land.' (4.) 'Sir-land' means—

(a) land recorded as sir at the last settlement of the district in which it is situate, and continuously so recorded since ;

(b.) land continuously cultivated for twelve years by the proprietor himself with his own stock or by his servants, or by hired labour ;

(c.) land recognized by village custom as the special holding of a co-sharer, and treated as such in the distribution of profits or charges among the co-sharers :

(5.) 'Collector of a District' means the 'Collector of a District' chief officer in charge of the Revenue Administration of a District :

(6.) 'Commissioner of a Division' means the 'Commissioner of a Division' Chief Officer in charge of the Revenue Administration of a Division :

(7.) 'Board' means the Board of Revenue for 'Board' the North-Western Provinces :

(8.) 'Civil Jail' means the civil jail of the district, and includes any place appointed by the Local Government for the confinement of prisoners under sentence of any Court constituted under this Act.

CHAPTER II.

RIGHTS AND LIABILITIES OF LANDHOLDERS AND TENANTS.

4. In the permanently-settled districts, persons who possess a permanent transferable interest in land, and who are intermediate between the proprietor of a mahal and the occupants, and who hold (otherwise than under a terminable lease) at a fixed rent which has not been changed from the time of the Permanent Settlement, shall continue to hold at such rent.

Persons holding land at fixed rent without change since permanent settlement to continue to hold at such rent.

5. All tenants in districts or portions of districts permanently settled, who hold lands at fixed rates of rent which have not been changed since the Permanent Settlement, shall have a right of occupancy at those rates, and shall be called "tenants at fixed rates."

6. Whenever, in any suit to which the presumptions of section four or of land not changed for section five apply, it is proved that the rent at which land

is held has not been changed for a period of twenty years next before the commencement of the suit, it shall be presumed that the land has been held at that rent from the time of the Permanent Settlement, unless the contrary be shown, or unless it be proved that such rent was fixed at some later period.

7. Every person who may hereafter lose part with his proprietary rights in any mahal shall have a right of occupancy if the land held by him as sir in such mahal at the date of such loss or parting, at a rent which shall be four annas in the rupee less than the prevailing rate payable by tenants-at-will for land of similar quality and with similar advantages.

Persons having such rights of occupancy shall be called "exproprietary tenants," and shall have all the rights of occupancy-tenants.

8. Every tenant who has actually occupied or cultivated land continuously for twelve years has a right of occupancy in the land so occupied or cultivated by him.

Such tenants shall be called "occupancy-tenants."

The occupation or cultivating of the father or other person from whom the tenant inherits, shall be deemed to be the occupation or cultivating of the tenant within the meaning of this section :

Provided that no tenant shall acquire, under Tenants barred from this section, a right of occupancy—

(a) in land which he holds from an occupancy-tenant, or from an exproprietary tenant, or from a tenant at fixed rates ;

(b.) in sir-land ;

(c.) in land held by him in lieu of wages.

Provided also that, when a tenant actually occupies or cultivates land under a written lease without having a right of occupancy in such land, the period of twelve years necessary for acquiring a right of occupancy therein by him or any one claiming under him shall begin on the expiration of the term of such lease. If during the currency of such lease he ceases to occupy the land comprised therein, and sublets it to another, no right of occupancy in such land shall be acquired by the sub-lessee during the currency of the lease.

9. The right of tenants at fixed rates shall be heritable and transferable.

Rights under sections 7 and 8 when transferable. No other right of occupancy shall be transferable by grant, will or otherwise, except as between persons who have become by inheritance co-sharers in such right.

When any person entitled to such last mentioned right dies, the right shall devolve as if it were land : Provided that no collateral relative of the deceased who did not then share in the cultivation of his holding shall be entitled to inherit under this section.

10. On the application of any tenant to have his class of tenure determined, the Collector of the District or Assistant Collector shall

determine the class to which he belongs, namely, whether he is a tenant at fixed rates, or an exproprietary tenant, or an occupancy-tenant, or whether he is a tenant without a right of occupancy.

Bar to enhancement of rent of tenants at fixed rates.

11. The rent paid by tenants at fixed rates shall not be liable to enhancement.

12. The rent paid by exproprietary or occupancy-tenants shall not be liable to enhancement except—

(a) by a written agreement registered under the Indian Registration Act, 1871, or recorded before the patwari of the village or the kanungo: or

(b) by order of a Settlement Officer passed under the law for the time being in force: or

(c) by order under this Act.

13. Where the rent of any occupancy-tenant has not been fixed by order of a Settlement Officer under the North-Western Provinces Land Revenue Act, 1873, or by an order under this Act,

or where the rent has been fixed by any such order, but the term for which it has been fixed has expired,

or where any of the events mentioned in section sixteen has occurred,

the landholder may apply to enhance the rent of such tenant on one of the following grounds and on no others:—

(a) that the rate of the rent paid by such tenant is below the prevailing rate payable by the same class of tenants for land of similar quality with similar advantages,

(b) that the value of the produce has, or the productive powers of the land have, been increased otherwise than by the agency or at the expense of the tenant;

(c) that the quantity of land held by the tenant has been proved by measurement to be greater than the quantity for which rent has been previously paid by him.

14. a. Where the rent of any exproprietary tenant has not been fixed by order of a Settlement Officer under the North-Western Provinces Land Revenue Act, 1873, or by an order under this Act,

or where the rent has been fixed by such order, but the term for which it has been fixed has expired,

or where any of the events mentioned in section sixteen has occurred,

the landholder may apply to enhance or determine the rent of such tenant as if he were an occupancy-tenant: Provided that his rent shall be four annas in the rupee below the prevailing rate for land of a similar quality with similar advantages held by tenants-at-will.

b. Whenever the district or tahsil, or other selection of land for local area in which such land is situated, has been divided by the Settlement Officer into circles of like capacity and soil, the land of similar quality, with similar advantages, shall, for the purposes of this section and section thirteen, be selected from the same circle.

c. When the Settlement Officer has not so divided the district or other local area as aforesaid, the land regarding which the application has been

made shall be compared with land of similar quality and with similar advantages, in the same tahsil or in a tahsil immediately adjacent.

15. Where the rent of any exproprietary tenant or occupancy-tenant has not been fixed by order of a Settlement Officer under the

North-Western Provinces Land-Revenue Act, 1873, or by an order under this Act,

or where the rent has been fixed by such order, but the term for which it has been fixed has expired,

or where any of the events mentioned in section sixteen has occurred,

the tenant may apply for an abatement of his rent on one of the following grounds, and on no others:—

(a) that the area of the land held by him has been diminished by diluvion or otherwise;

(b) that the value of the produce has, or the productive powers of such land have, been decreased by any cause beyond his power.

16. Subject to the provisions of section seventeen, where the rent of any exproprietary or occupancy-tenant has been fixed by an order under this Act, such rent shall not be liable to be enhanced or abated

(a) until the expiration of ten years from the date on which such order took effect, or

(b) until the revision (before confirmation) of the assessment of the district by order of the Local Government, or

(c) until the conclusion of the period of settlement of the district,

whichever of the said three events first occurs.

17. Where the rent of any exproprietary or occupancy-tenant has been fixed by order of a Settlement Officer under the

North-Western Provinces Land Revenue Act, 1873, or by an order under this Act, the landholder may apply to enhance the rent of such tenant during the currency of the term for which the rent has been so fixed, on one of the following grounds, and on no others:—

(a) that the area of the tenant's holding has been increased by alluvion or otherwise;

(b) that the productive powers of the land held by the tenant have, since the date of the order, been increased otherwise than by the agency or at the expense of the tenant:

And the tenant may apply for abatement of his rent on one of the following grounds, and on no others:—

(c) that the area of the land held by him has been diminished by diluvion or otherwise;

(d) that the productive powers of such land have been decreased by any cause beyond his control.

18. In the case of a tenant at fixed rates, the

landholder may apply to enhance his rent on the ground that the area of the land in his holding has been increased by alluvion or otherwise,

and the tenant may apply for abatement of his rent on the ground that the area of the land in his holding has been diminished by diluvion or otherwise.

19. Applications for enhancement or abatement
Day before which applications for enhancement or abatement must be made.

before the thirty-first day of December next before the year commencing on the first day of July from which the rent is to be enhanced or abated,

and all orders for enhancement or abatement shall take effect from the first day of July next following the date of the application.

Orders when to take effect.
20. In determining, under this chapter, the rate of rent payable by any tenant, his caste shall not be taken into consideration, unless it is proved that, by local custom, caste is taken into account in determining such rate;

and whenever it is found that, by local custom or practice, any class of persons, by reason of their having formerly been proprietors of the soil or otherwise, hold land at favourable rates of rent, the rate shall be determined in accordance with such custom or practice.

21. No tenant-at-will of land shall be liable to pay rent in excess of the rent (if any) payable by him in the previous year ending

on the thirtieth day of June, unless the landholder and tenant have agreed as to the rent to be paid to the former by the latter, and such agreement has been recorded by the patwari of the village or the kāndīngō of the pargana in which such land is situate.

22. Notwithstanding anything hereinbefore contained, when the rent of any exproprietary or occupancy-tenant has been fixed by agreement.

Rent of exproprietary or occupancy-tenant fixed by agreement between the parties, such rent shall not be liable to enhancement or abatement for such term as may be agreed on.

23. Whenever in any land the crops have been damaged or destroyed by any cause beyond the tenant's control, any officer empowered by the Local Government in this behalf may, subject to such rules as to appeal, confirmation or otherwise, as may from time to time be prescribed by the Board, order that the whole or any part of the rent then payable for such land shall be remitted, or that the payment thereof shall be suspended for such period as he thinks fit;

And, subject to the same rules, the landholder shall be bound by such order:

And in case of such remission, the Local Government shall remit the revenue due in respect of such land to an amount which shall, at the option of the Local Government, be equal to one-half of the rent remitted, or shall bear the same proportion to the whole of the revenue due in respect of the mahal, as the rent remitted bears to the whole of the rent payable in respect of such mahal;

And in case of such suspension, the Local Government shall suspend for the period of such suspension so much of the revenue payable in respect of the mahal as, at the option of the Local Government, is equal to one half of the rent of which the payment has been suspended, or bears the same proportion to the whole revenue payable in respect of the mahal, as the rent of which the

payment has been suspended bears to the whole rent payable in respect of such mahal.

(A).—Leases.

24. Every tenant is entitled to receive from the landholder, and may at any time during the continuance of his holding apply for, a lease containing the following particulars:—

- (a.) the quantity of land held by him, and where the fields have been numbered in a Government survey, the number of each field;
- (b.) the amount of annual rent payable for such land;
- (c.) the instalments in which, and the dates on which, such rent is to be paid;
- (d.) any special conditions of the lease;
- (e.) if the rent is payable in kind, or is calculated on a valuation of the produce, the proportion of produce to be delivered, the mode of valuation, and the time, manner and place of delivery.

Leases to which tenants at fixed rates are entitled.

25. Tenants at fixed rates are entitled to receive leases at such rates.

26. Exproprietary and occupancy-tenants are entitled to receive leases at the rates hitherto paid by them, or determined in accordance with the provisions of this Act.

Leases to which other tenants are entitled.

27. All other tenants are entitled to leases only on such terms as may be agreed upon between them and the landholders.

28. Every landholder who grants a lease is entitled to receive a reciprocal engagement from the tenant, executed by the tenant, and conformable with the terms of the lease.

The tender to any tenant of a lease, such as he is entitled to receive, shall entitle the landholder to receive a reciprocal engagement from such tenant.

29. If any lease be granted, or if any agreement be entered into, by any landholder under engagement with Government for his land, fixing the rent of land for any period exceeding the term of such engagement, such lease or agreement shall, on the expiration of the term aforesaid, be void at the option of either party.

30. a. And whereas all grants (whether in writing or otherwise) for holding land exempt from the payment of rent which

have been made since the first day of December 1790, by any authority other than that of the Governor-General in Council, were declared by Bengal Regulation XIX of 1793, section ten, to be null and void, and like provisions have been by divers Regulations applied to the several parts of the territories to which this Act extends, and the said Regulation XIX of 1793 also provided that no length of possession should be considered to give validity to any such grant, either with regard to the property in the soil or the rents of it, it is hereby enacted as follows:—

b. Applications by the proprietor to resume such grants or to assess rent on the land, shall be made to the Collector of the District

or Assistant Collector, and, subject to rules to be made under section two hundred and eleven, shall be dealt with as other applications under this Act.

c. Grants of land held under a written instrument, by which the grantor which grantor has expressly agreed that the grant previously agreed not to shall not be resumed, shall be held valid as against him resumee.

(but not as against his representatives after his death) during the continuance of the settlement of the district in which the land is situate, which is current at the date of the grant.

d. Where any land has been for fifty years or upwards, and still is, held rent-free and by at least two successors to the original grantee, such holding shall be deemed to confer on the holder a proprietary right.

e. Nothing in the Indian Limitation Act, 1871, shall bar the right to make an application under this Act to assess to rent land held rent-free.

f. Nothing in this section shall apply to either of the following cases:—

(1) Where land is previously to the passing of this Act held rent-free under a judicial decision:

(2) Where, previously to the passing of this Act, land held rent-free has been purchased for a valuable consideration and resumption thereof has been barred under Act No. X of 1859, section twenty-eight, or under the Indian Limitation Act, 1871, schedule II, No. 130.

(B).—Relinquishment and Ejectment.

31. Every tenant not holding under a lease Relinquishment of land shall continue liable for the by tenant not holding rent of the land in his holding under a lease. for the ensuing year, unless on or before the first day of May in any year he gives notice in writing to the landholder, or his recognized agent, of his desire to relinquish such land on the thirtieth day of June next ensuing, and relinquishes it accordingly; or unless it is let to any other person by such landholder or agent.

32. If the landholder or his agent refuse to receive such notice, or if he Service through tahsildár of notice of relinquishment. receive it but refuse to sign a receipt for the same, the tenant may make an application to the tahsildár, who shall thereupon cause the notice to be served on such landholder or agent, the tenant paying the costs of service.

33. The notice shall, if practicable, be served personally on the landholder Mode of serving notice. or his agent; but if the landholder or his agent cannot be found, or if he evades service of the notice, service may be made by affixing the notice at his usual place of residence, or, if he does not reside in the district wherein the land is situate, at the *chaupál*, or other conspicuous place in the village where the land is situate.

Where the delay in serving the notice is owing to the fault of the landholder or his agent, the notice shall be deemed to have been served at the first attempt to serve it.

34. a. When an arrear of rent remains due from Liability of tenant to pay interest on arrear and to be ejected. any tenant, he shall be liable to pay interest on such arrear at one per cent. per mensem;

and if the arrear remains due on the thirtieth day of June, to be ejected from the land in respect of which the arrear is due:

b. No tenant at fixed rates, exproprietary tenant, Bar to ejectment with holding under an unexpired lease, shall be ejected otherwise than in execution of a decree or order under the provisions of this Act.

c. No ejectment of a tenant or forfeiture of a lease shall be decreed on account of any act or omission of the tenant.

(1). which is not detrimental to the land in his occupation, or inconsistent with the purpose for which the land was let, or

(2). which by law, custom, or special agreement does not involve the forfeiture of the lease.

35. If the landholder desire to eject a tenant at fixed rates, an exproprietary tenant, an occupant, or holding under an unexpired lease, against whom a decree for arrears has been passed and remains unsatisfied, he may, after the expiration of the year, ending on the thirtieth day of June, in which such arrears accrued, apply to the Collector of the District or Assistant Collector to eject the tenant.

Such officer shall, on receiving such application, (subject to the provisions of the Indian Limitation Act, 1871, and of section one hundred and sixty-two of this Act) cause a notice to be served on the tenant, stating the amount due under the decree, and informing him that, if he does not pay such amount into Court within fifteen days from receipt of the notice, he will be ejected from his land.

If such amount be not so paid, the Collector of the District or Assistant Collector may eject the tenant.

36. If the landholder desire to eject a tenant not having a right of occupancy, or any other tenant holding only for a limited period, after the determination of his tenancy, he may cause a written notice of ejectment to be served on such tenant under the provisions of this Act.

37. The notice of ejectment shall be written in the vernacular language and character of the district:

it shall specify the land from which the tenant is to be ejected;

and it shall inform him that he must vacate such land on or before the first day of May next following; or that, if he means to contest the right to eject him, he must apply to the Collector of the District or Assistant Collector for that purpose on or before that date.

38. The notice shall be issued and served through the office of the tahsildár on or before the first day of April, and the landholder shall pay the cost of service: it shall be served personally on the tenant, if practicable; but if he cannot be found, service may be made by affixing the notice to his usual place of residence.

39. a. The tenant, on whom such notice has been served, may, on or before the first day of May next after contest liability to the service, make an application to the Collector of the District or Assistant Collector, contesting his liability to be ejected.

b. When such an application is made, the Collector of the District or Assistant Collector shall proceed to determine the question between the parties.

c. If no such application is made, the tenancy of the land in respect of which the notice has been served shall be held to cease on the first day of May next after the service; unless, after such service, the landholder authorises the tenant to continue in the occupation of the land.

40. If the landholder require assistance to eject the person whose tenancy is alleged to have ceased under ejectment.

Procedure to enforce the provisions of section thirty-nine, he may apply to the Collector of the District or Assistant Collector for such assistance before the ploughing for the *kharif* harvest commences in the district; and the Collector of the District or Assistant Collector shall order the ejectment of such tenant if he is satisfied—

- (a) that the notice was duly served on such tenant under section thirty-eight;
- (b) that he has not been authorised by the landholder to continue in occupation;
- (c) that the tenant has not made the application mentioned in section thirty-nine, or
- (d) that if such application has been made, the question has been determined adversely to the tenant.

Provided that no such application for the ejectment of a farmer on the determination of a lease shall be received if the lease be of the kind in which an advance has been made by the leaseholder, and the proprietor's right of re-entry at the end of the term is contingent on the repayment of such advance either in money or by the usufruct of the land. In all such cases the landholder must proceed by suit in the Civil Court.

41. If the landholder expressly authorise the tenant, on whom the notice of ejectment has been served, or against whom any proceedings in ejectment under section forty have been taken, to remain in occupation of the land, and to prepare it for the *kharif* harvest, the proceedings shall become void.

42. a. Any tenant ejected in accordance with the provisions of this Act, shall be entitled to any growing crops or other ungathered products of the earth belonging to the tenant, and growing on the land at the time of his ejectment, and to use the land for the purpose of tending and gathering in such crops or other products paying adequate rent therefor.

b. Provided that, if the landholder desire to pursue such crops or other products, he may tender their price to the tenant; and thereupon the right of the tenant to such crops and other products, and to use the land for the purpose aforesaid, shall cease.

c. In the case of a dispute under this section Power to determine the Collector of the District rent and price. or Assistant Collector may on the application of the landholder or tenant, aware the rent and price so payable; and the amount of such award, or of any tender accepted under this section, shall be recoverable as an arrear of rent by suit under this Act.

d. The rent, if any, payable to the landholder Set-off of rent. by the tenant at the time of his ejectment may be set-off against the price of the said crops or other products.

43. a. Wherever rent is taken by division of the produce in kind, or by Application for officer to divide produce or appraise crop. estimate or appraisement of the standing crop, or other procedure of a like nature, requiring the presence both of the cultivator and landholder, either personally or by agent,

if either landholder or tenant, personally or by agent, neglect to attend at the proper time, or if there is a dispute as to the amount or value of the crop,

an application may be presented by either party to the Collector of the District or Assistant Collector, requesting that a proper officer be deputed to make the division, estimate, or appraisement.

b. On receiving such application, the Collector Procedure on such application. Collector shall issue a written notice to the opposite party or his agent, to attend on the date and at the time specified in the notice, and shall depute an officer before whom such division, estimate, or appraisement shall be made.

c. If on or before the date appointed, the dispute has not been amicably adjusted, three residents of the village or neighbourhood shall be appointed assessors; one by each of the parties, and one by the officer deputed to divide the grain or estimate or appraise the crops, and the officer deputed shall decide the amount of rent payable by their award, and shall give to the party applying a written authority to divide the grain or cut the crops.

d. Provided that, if either party fail to attend, the officer deputed shall nominate an assessor on his behalf.

e. The officer deputed shall report his proceedings to the Collector of the District or Assistant Collector, who shall determine the amount of costs properly incurred under this section, and the share of the costs to be paid by either party.

(C.)—Compensation for Improvements made by Tenants.

44. If any tenant, or any person from whom he has inherited or purchased, make any such improvements on the land in his possession as are hereinafter mentioned, neither he nor his representative shall be ejected from the same land without payment of compensation for such improvements.

Explanation.—The word "improvements" as used in this section means works by which the annual letting value of the land has been, and at the time of demanding compensation continues to be, increased, and comprises—

- (a.) tanks, wells and other works for the storage, supply or distribution of water for agricultural purposes,

(b.) works for the drainage of land, or for the protection of land from floods, or from erosion or other damage by water,

(c.) the reclaiming, clearing, or enclosing of lands for agricultural purposes,

(d.) the renewal or re-construction of any of the foregoing works, or alterations therein, or additions thereto.

45. Such compensation may, at the option of the Mode of making com. landholder or his representative, be made—

1st,—by payment in money;

2nd,—by a rent to be charged on the land;

3rd,—by the grant of a beneficial lease of the land, by the landholder or his representative, to the tenant or his representative;

4th,—partly by one or by any two of the said ways, and partly by the others or other of the same ways.

46. In case of difference as to the amount or Settlement of differ. value of the compensation ence as to amount or, tendered, either party may value of compensation. apply to the Collector of the District or Assistant Collector stating the matter in dispute, and requesting a determination thereof.

On receiving such application, the Collector of the District or Assistant Collector shall

(a) cause notice thereof to be served on the other party,

(b) take such evidence as the parties or either of them may adduce,

(c) make such further inquiry as the Collector of the District or Assistant Collector may deem necessary, and

(d) determine the amount of the payment in money, and the amount and incidence of the rent-charge, and the terms of the lease, or any of such matters.

47. In determining the amount or value mentioned in section forty-six, or Considerations in determining compensation. the terms of such lease, the Collector of the District or

Assistant Collector shall take into account any assistance given to the tenant by the landholder either directly in money, material or labour, for the purpose of making such improvements, or indirectly by allowing the tenant to hold at a favourable rate of rent.

(D.)—Compensation for wrongful Acts and Omissions.

48. Every tenant from whom any sum is exacted Right of tenant to compensation for exactions in excess of rent or for withholding receipt. in excess of the rent specified in his lease or payable under the provisions of this Act,

and every tenant from whom a receipt is withheld for any sum of money paid by him as rent,

shall be entitled to recover from the landholder compensation not exceeding double the amount so exacted or paid.

Receipts for rent shall specify the period or Contents of receipt. crop on account of which the rent is acknowledged to have been paid;

and any refusal to make such specification shall be held to be a withholding of a receipt.

49. If payment of rent, whether the same be payment of rent by from any tenant by illegal duress. Damages for extorting legally due or not, is extorted confinement or other duress, he shall be entitled to recover from the person guilty of such extortion such further compensation, not exceeding the sum of two hundred rupees, as the Collector of the District or Assistant Collector thinks reasonable.

An award of compensation under this section shall Liability to punish. not bar or affect any penalty payment for extortion not or punishment to which the affected person guilty of such extor- tion may be subject under the Indian Penal Code.

(E.)—Deposit of Rent in Court.

50. If any tenant tenders to the landholder Deposit of amount full payment of the rent due tendered by tenant and from him, and if the amount refused. so tendered be not accepted, and a receipt for the amount forthwith granted, the tenant may thereupon apply to the Collector of the District or Assistant Collector for leave to deposit such amount in his Court to the credit of the landholder.

51. The application to the Collector of the Form and verification District or Assistant Collector of application. or shall be as nearly as may be in the form (A) in the first schedule hereto annexed, and shall be verified in the manner prescribed for the verification of plaints under section one hundred and seven:

and the person making the verification shall be Penalty for false punishable, if the application statement. contain any averment which he knows or believes to be false, or does not know or believe to be true.

52. The Collector of the District or Assistant Notice to issue on de. Collector shall receive the posit being made. amount which the tenant desires to deposit, and shall thereupon issue to the person to whose credit it has so been deposited, a notice in English or the vernacular language of the district in the form (B) in the first schedule hereto annexed, or to the like effect.

And such deposit shall, in all questions between the landholder and the tenant, be deemed to be a payment made by the tenant to the landholder on account of the rent.

53. Such notice shall be served through the Mode of serving tahsildar upon the person notice. to whom it is addressed, or upon his recognized agent.

In their absence, the notice shall be affixed at the chānpál, or other conspicuous place in the village in which the land for which the rent is due is situate.

54. If at any time before the expiration of three Payment to person years from the date of the de- served with notice on posit the person on whom such his application. notice is served, or his recognized agent, appears, and applies that the money in deposit be paid to him, it shall be paid accordingly, unless it has been repaid or paid in accordance with the provisions next hereinafter contained.

55. If no application be made by such person Refund to depositor. or his recognized agent, the sum shall be repaid to the depositor on the expiration of three years from the date of the deposit.

And at any time before the expiration of such period, on the joint application of the depositor and the person to whose credit the said sum was deposited, such sum shall be paid in such manner as the joint applicants desire.

CHAPTER III.

DISTRESS.

56. The produce of all land in the occupation of a cultivator shall be deemed to be hypothecated for the rent payable in respect of such land;

and when an arrear of rent is due from any cultivator, the person entitled to receive rent immediately by distress, from him may, instead of suing for the arrear as hereinafter provided, recover the same by distress and sale of the produce of the land in respect of which the arrear is due, under the rules contained in this chapter.

57. Provided—

(a.) that, when a cultivator has given security for the payment of his rent, barred by security given for rent, the produce of the land for the rent of which security has been given, shall not be liable to be distrained;

(b.) that no sharer in any mahál shall have Sharer when entitled power to distrain upon any cultivator unless he is entitled to collect the whole rent from such cultivator;

(c.) that no sharer in a joint undivided mahál shall exercise such power otherwise than through a manager authorised to collect the rents of the whole mahál on behalf of all the sharers therein;

(d.) that in patti-dári maháls distress shall be made only through a lambardár, or, where the rent of a patti is not collected by a lambardár, through the patti-dári who is entitled to collect the rent.

No distress for over-due arrear, nor, without agreement, for excess over past year's rent.

58. A distress shall not be made for any arrear which has been due in respect of any land for a longer period than one year;

nor for the recovery of any sum in excess of the rent payable for the same land in the preceding year, unless the rent has been enhanced under the provisions hereinbefore contained, or by order of a Settlement Officer, or unless the cultivator has agreed to pay such excess and such agreement has been attested before the patwári or kánungo.

59. The power to distrain conferred by sections

Distress by managers under Court of Wards, &c. fifty-six and fifty-seven may be exercised by managers under the Court of Wards, and other persons lawfully entrusted with the charge of immoveable property;

and also by the agents employed by such persons as aforesaid, in the collection of rent, if expressly authorized by power-of-attorney in that behalf:

If any wrongful act is committed by any such agent, under colour of the act, exercise of the said power, such agent and his principal shall be jointly and severally liable to make compensation for such act.

60. When any person, empowered to distrain property under section fifty-six, section fifty-seven or section fifty-nine, employs

a servant or other person to make the distress, he shall give him a written authority for the same, and the distress shall be made in the name of the person giving such authority.

61. Standing crops and other ungathered

Standing crops and products of the earth, and crops gathered liable to crops or other products distress, when reaped or gathered, and deposited in any threshing-floor or place for treading out grain or the like, whether in the field or within a homestead, may be distrained by persons invested with power to distrain under the provisions of this Act.

But no such crops or products, other than the produce of the land in respect of which an arrear

of rent is due, or of land held under the same engagement, and no grain or other produce after it has been stored by the cultivator, and no other property whatsoever, shall be liable to be distrained under this Act.

62. Before or at the time when a distress is made

Defaulter to be served with written demand and account. under this Act, the distrainer shall cause the defaulter to be served with a written demand for the amount of the arrear, together with an account exhibiting the grounds on which the demand is made.

The demand and account shall, if practicable, be served personally on the defaulter; or, if he abscond

or conceal himself, so that they cannot be so served, shall be affixed at his usual place of residence.

63. Unless the amount of the demand is imme-

Distress to be proportionately paid or tendered, the distrainer may distrain property as aforesaid equal in value, as nearly as may be, to the amount of the arrear and the costs of the distress; and shall prepare

List of property to be prepared and copy served. a list or description of the said property, and deliver a copy of the same to the owner, or, if he be absent, affix it at his usual place of residence.

64.a. Standing crops and other ungathered products

Standing crops, &c., when distrained, may be the distress, be reaped and gathered by the cultivator, and he may store the same in such granaries or other places as are commonly used by him for the purpose.

b. If the cultivator neglect to do so, the distrainer shall cause the said crops or products to be reaped or gathered, and in such case shall store the same either in such granaries or other places as aforesaid, or in some other convenient place in the neighbourhood.

c. In either case the distrained property shall be placed in the charge of some person appointed by the distrainer for the purpose.

d. Crops or products which, from their nature, do not admit of being stored, may be sold before they are reaped or gathered, under the rules hereinafter

provided ; but in such case, the distress shall be made at least twenty days before the time when the crops, or products, or any part of the same are fit for reaping or gathering.

65. If a distrainer is opposed, or apprehends resistance, and desires Assistance to distrainer to obtain the assistance of a public officer, he may oppose or apprehending apply to the Collector of the District or Assistant Collector, who may, if he thinks necessary, depute an officer to assist the distrainer in making the distress.

66. If at any time after property has been distrained and before the day fixed for putting it up to sale as hereinafter provided, the owner of the property tenders payment of the arrear demanded of him, and of the expenses of the distress, the distrainer shall receive the same, and shall forthwith withdraw the distress.

67. Within five days from the time of the Application for sale, storing of any distrained crops or products,

or if the crops or products do not from their nature admit of being stored, within five days from the time of making the distress,

the distrainer shall apply for sale of the same to the officer for the time being authorized by the Local Government to sell distrained property within the tahsil in which they are situate.

68. The application shall be in writing, and Contents of application. shall contain—

- (a) an inventory or description of the property distrained,
- (b) the name of the defaulter and his place of residence,
- (c) the amount due, and the date of the distress, and
- (d) the place in which the distrained property is.

Together with the application, the distrainer shall Fee for service of notice. deliver to the said officer the fee for the service of a notice upon the defaulter as hereinafter provided.

69. Immediately on receipt of the application, Procedure on receipt the said officer shall send a copy of it to the Collector of the District or Assistant Collector ;

and shall serve a notice in the form (C) contained in the first schedule hereto annexed, or to the like effect, on the person whose property has been distrained, requiring him either to pay the amount demanded, or to institute a suit to contest the demand before the Collector of the District, or Assistant Collector, within the period of fifteen days from the receipt of the notice.

He shall at the same time send to the Collector of the District or Assistant Collector, for the Purpose of being put up in his office and in the office of the tahsildar, a proclamation fixing a day for the sale of the distrained property, which shall not be less than twenty days from the date of the application ; and shall deliver a copy of the proclamation to the peon charged with the service of the notice, to be put up by him in the place where the distrained property is deposited.

The proclamation shall contain—

- (a) a description of the property,
- and shall specify—
- (b) the demand for which it is to be sold, and
- (c) the place where the sale is to be held.

70. If a suit is instituted before the Collector Suspension of sale on receipt of Collector's certificate of institution of suit. of the District or Assistant Collector in pursuance of the aforesaid notice, the Collector of the District or Assistant

Collector shall send to the officer referred to in section sixty-seven, or, if so requested, shall deliver to the owner of the distrained property, a certificate of the institution of such suit ;

and on such certificate being received by, or presented to, the said officer, he shall suspend the sale.

71. A person whose property has been distrained in manner hereinbefore provided, may, immediately after the distress, and before the issue of notice of sale, institute a suit to contest the demand of the distrainer.

When such suit is instituted, the Collector of the District or Assistant Collector shall proceed in the manner prescribed in the last preceding section.

If, thereafter, application for the sale of the property is made to the said officer, he shall send a copy of the application to the Collector of the District or Assistant Collector, and suspend further proceedings, pending the decision of the case.

72. The person whose property has been distrained may, at the time of instituting any such suit as aforesaid, or at any subsequent period, execute a bond with a surety, binding himself to pay whatever sum may be adjudged to be due from him, with interest and costs of suit ;

and when such bond is executed, the Collector of the District or Assistant Collector shall give to the owner of the property a certificate to that effect, and, if so requested, shall serve the distrainer with notice of the same ;

and upon such certificate being presented to the distrainer by the owner of the property, or served on him by order of the Collector of the District or Assistant Collector, the property shall be released from distress.

73. If the institution of a suit to contest the demand of the distrainer has proceeded with. When sale may be not been certified, in manner hereinbefore provided, to the said officer, on or before the day fixed in the proclamation of sale, he shall, unless the said demand, with such costs of the distress as are allowed by him, be discharged in full, proceed, in manner hereinafter mentioned, to sell the property or such part of it as may be necessary to satisfy the demand with the costs of distress and sale.

74. The sale shall be held at the place where Place of sale. the distrained property is, or at the nearest place of public resort, if the said officer is of opinion that it is likely to sell there to better advantage.

The property shall be sold by public auction, in one or more lots, as the officer holding the sale may think advisable ;

and if the demand, with the costs of distress
Withdrawal of dis- and sale, be satisfied by the
tress when demand and sale of a portion of the pro-
costs satisfied. perty, the distress shall be
immediately withdrawn with respect to the re-
mainder.

75. If, on the property being put up for sale, a
If fair price be not fair price (in the estimation
offered, sale may be post- of the officer holding the
poned and shall be then sale) be not offered for it,
completed. and if the owner of the pro-
perty, or some person authorized to act on his
behalf, apply to have the sale postponed until the
next day, or, if a market be held at the place of sale,
the next market-day, the sale shall be postponed
until such day and shall be then completed what-
ever price may be offered for the property.

76. The price of every lot shall be paid for in
Payment of purchase- ready money at the time of
money: sale, or as soon thereafter as
the officer holding the sale
thinks necessary;

and, in default of such payment, the property
Resale on default. shall be put up again and
sold.

When the purchase-money has been paid in full,
Certificate to pur- the officer holding the sale
chaser. shall give the purchaser a
certificate, describing the
property purchased by him and the price paid.

77. From the proceeds of every sale of distrained
Deduction from pro- property under this Act, the
ceeds of costs of sale. officer holding the sale shall
make a deduction at the rate
of one anna in the rupee on account of the costs of
the sale, and shall send the amount so deducted
to the Collector of the District or Assistant Collector.

He shall then pay to the distrainer the ex-
Payment of distrainer's penses incurred by the dis-
expenses. traainer on account of the
distress, and of the issue of
the notice and proclamation of sale prescribed in
section sixty-nine, to such amount as, after examining
the statement of expenses furnished by the dis-
trainer, he thinks proper to allow.

The remainder shall be applied to the discharge
Discharge of arrear of the arrear for which the
with interest. distress was made, with in-
terest thereon up to the day of sale;

and the surplus (if any) shall be delivered to
Surplus. the person whose property has
been sold.

78. Officers holding sales of property under
Sale-officers and em- this Act, and all persons
ployees prohibited from employed by or subordinate
purchasing. to such officers, are prohib-
ited from purchasing, either directly or indirectly,
any property sold by such officers.

79. Officers holding sales under this chapter
Report of irregularities are required to bring to the
by distrainer. notice of the Collector of the
District or Assistant Collector
or any material irregularities committed by dis-
trainers under colour of this Act;

and if, in any case, on proceeding to hold any
Postponement of sale, such sale, the officer hold-
ing it find that the owner
and report to Collector when owner has not of the property has not
received due notice. received due notice of the dis-
tress and intended sale, he shall postpone the sal-
and report the case to the Collector of the District
or Assistant Collector, who shall thereupon direc-
Order of Collector. the issue of another notice
and proclamation of sale
under section sixty-nine, or pass such other order
as he thinks fit.

80. When an officer goes to any place for
Levy of charge when the purpose of holding a sale
sale-officer attends, and under this Act, and no sale
no sale takes place. takes place, either for the
reason stated in section seventy-nine, or because
the demand of the distrainer has been previously
satisfied, no intimation of such satisfaction having
been given by the distrainer to such officer, the
charge of one anna in the rupee on account of ex-
penses shall be leviable, and shall be calculated on
the estimated value of the distrained property.

If the distrainer's demand be not satisfied
Recovery from owner. until the day fixed for the
sale, the charge for expenses
shall be paid by the owner of the property, and may
be recovered by the sale of such portion thereof as
may be necessary.

In every other case it shall be paid by the
Recovery from dis- distrainer, and may be re-
traminer. covered by attachment and
sale of his property under the warrant of the
Collector of the District or Assistant Collector:

Provided that in no case shall a larger amount
Limit to charge. than ten rupees be recoverable
under this section.

81. When a suit has been instituted to contest
Order of sale when the demand of a distrainer,
amount adjudged due. and the distrained property
has not been released on security, if the demand or
any portion of it is adjudged to be due, the Col-
lector of the District or Assistant Collector shall
issue an order to the officer authorizing the sale of
such property;

and, on the application of the distrainer within
Second proclamation five days from the receipt of
of sale. such order by the officer, such
officer shall publish a second proclamation in the
manner prescribed in section sixty-nine, fixing
another day for the sale of the distrained property,
which shall not be less than five nor more than
ten days from the date of the proclamation;

and, unless the amount adjudged to be due with
Sale on failure to pay the costs of distress be paid,
debt and costs. shall proceed to sell the
property in the manner hereinbefore provided.

82. a. In all suits instituted to contest the dis-
In suit to contest his traainer's demand, he shall be
demand, distrainer to required to prove the arrear
prove arrear. in the same manner as if he
had himself brought a suit for the amount under
the provisions hereinafter contained.

b. If the demand or any part thereof is found to
Recovery of amount be due, the Collector of the
decreed in favour of District or Assistant Collector
distrainer. or shall make a decree for the
amount in favour of the distrainer, and such
amount may be recovered by sale of the property.

as provided in the last preceding section, if the distress has not been withdrawn;

and, if any balance remain due after such sale, by execution of the decree against the person and any other property of the defaulter,

or if the property have been released on security, by execution of the decree against the person and property of the defaulter and of his surety.

c. If the distress is adjudged to be vexatious Compensation in case or groundless, the Collector of vexatious distress. of the District or Assistant Collector, besides directing the release of the distrained property, may award such compensation to the plaintiff as the circumstances of the case require.

83. a. If any person claim as his own, property Suit by person claim- which has been distrained ing property distrained for arrears of rent alleged for arrears alleged to be to be due from any other due from another.

person, the claimant may institute a suit against the distrainer and such other person, to try the right to the property, in the same manner and under the same conditions as to the time of instituting the suit and to the consequent postponement of sale, as a person whose property has been distrained for an arrear of rent alleged to be due from him, may institute a suit to contest the demand.

b. When any such suit is instituted, the property may be released upon security being given for the value of the same.

c. If the claim is dismissed, the Collector of the Order of Collector District or Assistant Collector when claim dismissed. or shall make an order for the sale of the property, or for the recovery of the value thereof, as the case may be, for the benefit of the distrainer.

d. If the claim is upheld, the Collector of the Decree for release and District or Assistant Collector compensation when claim upheld. or shall decree the release of the distrained property with costs, and such compensation (if any) as the circumstances of the case require.

e. Provided that no claim to any produce of land liable to distress under this Act, which at the time of the distress may have been found in the possession of a defaulting cultivator, shall bar the prior claim of the person entitled to the rent of the land, nor shall any attachment in execution of a judgment of any Civil Court prevail against such prior claim.

84. If, in any case in which property has been distrained for an arrear of rent, and a suit has been instituted to contest the demand, the right to distrain for such arrears is claimed by

Procedure where right to distrain is claimed by person other than distrainer. or on behalf of any person other than the distrainer, on the ground of such other person being actually and in good faith in the receipt and enjoyment of the rent of the land, such other person shall be made a party to the suit, and the question of the actual receipt and enjoyment of the rent by him before and up to the time of the commencement of the suit shall be enquired into, and in deciding the suit the result of such inquiry shall be taken into consideration.

Provided that the decision of the Collector Saving of right to sue of the District or Assistant in Civil Court. Collector shall not affect the right of any person who may have a legal title to the rent of the land, to establish his title by suit in the Civil Court if instituted within one year from the date of the decision.

85. If any person whose property has been Persons prevented from distrained for the recovery suing in time to save of a demand not justly due, property from sale, may or of a demand due or sue for damages. alleged to be due from some other person, is prevented by any sufficient cause from bringing a suit to contest the demand or to try the right to the property, as the case may be, within the period allowed by section ninety-four, and his property is in consequence brought to sale, he may, nevertheless, institute a suit under this Act to recover compensation for the illegal distress and sale of his property.

86. If any person empowered to distrain property, or employed for the purpose under a written authority by a person so empowered, distrain or sell, or cause to be sold, any property for the recovery of an arrear of rent alleged to be due, otherwise than according to the provisions of this Act,

or if any distrained property is lost, damaged, or destroyed by reason of the distrainer not having taken proper precautions for the due keeping and preservation thereof,

or if the distress is not immediately withdrawn when it is required to be withdrawn by any provision of this Act,

the owner of the property may institute a suit under this Act to recover compensation for any injury which he has thereby sustained through any act or omission mentioned in the former part of this section.

87. If any person not empowered to distrain property under section fifty-six, fifty-seven or fifty-nine, nor employed for the purpose under a written authority by a person so empowered, fraudulently distrains or sells, or causes to be sold, any property under colour of this Act, the owner of the property so distrained or sold may institute a suit under this Act to recover compensation from such person for any injury which the plaintiff has sustained from the distress or sale,

and the defendant shall be held to have committed an offence subject to the penalties provided for that offence by the Indian Penal Code in addition to any damages which may be awarded against him in such suit.

88. Provided that every suit instituted under Limitation of suits any of the three last preceding sections shall be commenced within the period allowed by section ninety-four.

89. a. If any person resists a distress of property duly made under this Act, or forcibly or clandestinely removes any distrained property, the Collector of the District or Assistant Collector in charge of the Sub-division, upon complaint being made within fifteen days

from the date of such resistance or removal, shall cause the person accused to be arrested and brought with all convenient speed before the Collector or Assistant Collector, who shall, if possible, proceed forthwith to try the case.

b. If the case cannot be at once heard, the Collector of the District or Assistant Collector may, if he think fit, require the party arrested to give security for his person, and, in default of such security, may commit him to the civil jail until the case is tried,

and if the offence be proved and the offender be the owner of the property concerned, the Collector of the District or Assistant Collector may order him to be imprisoned in the civil jail for a term not exceeding six months, unless the whole arrear due to the distrainer, with all expenses and costs, is previously to the expiration of such term paid or levied under warrant of the Collector of the District or Assistant Collector by distress and sale of the property of the offender.

c. If the offender be not the owner of the property concerned, he shall make good to the distrainer the value of the same, and shall further be liable to a fine not exceeding one hundred rupees, or, in default of payment thereof, to imprisonment in the civil jail for a period not exceeding two months.

90. All proceedings of officers distraining, or Proceedings of officers assisting distrainers, or holding subject to revision and sales, under this chapter, orders of Collector. shall be subject to the revision and orders of the Collector of the District or Assistant Collector in charge of a Sub-division of the District.

CHAPTER IV. PROCESS.

91. a. Every process issued by a Collector of a District or Assistant Collector under this Act shall be under his seal and signature, and shall be served or executed by the Nazir, or by such other officer as the Collector of the District or the Assistant Collector may direct, at the cost of the party at whose instance it is issued.

b. The amount of such cost, and, in the case of summons to a witness, the sum required for his travelling expenses, shall be deposited in Court before the process is issued:

c. Provided that, if in any case the Collector of the District or the Assistant Collector is satisfied that a party is unable to pay the cost of any necessary process, he may direct such process to be served free of charge.

92. Any resistance or opposition to the lawful process of a Collector of the District or Assistant Collector under this Act, may be punished by him according to the provisions of the law for the time being in force for the punishment of resistance or opposition to the processes of the Courts of civil justice.

When, in any such case, the offender is not present, the Collector of the District or Assistant Collector may summon him to answer to the charge: and if after due service of

the summons he fail to attend, may issue a warrant for his apprehension.

CHAPTER V.

JURISDICTION OF COURTS.

93. Except in the way of appeal as hereinafter provided, no Courts other than Courts of Revenue shall take cognizance of any dispute or matter in which any suit of the nature mentioned in this section might be brought, and such suits shall be heard and determined in the said Courts of Revenue in the manner provided in this Act, and not otherwise:

(a) suits for arrears of rent on account of land or on account of any rights of pasturage, forest-rights, fisheries or the like;

(b) suits to eject a tenant for any act or omission detrimental to the land in his occupation or inconsistent with the purpose for which the land was let;

(c) suits to cancel a lease for the breach of any condition binding on the tenant, and which, by law, custom or special agreement, involves the forfeiture of the lease;

(d) suits for the recovery of any overpayment of rent, or for compensation under section forty-eight or forty-nine;

(e) suits for compensation for withholding receipt for rent paid;

(f) suits for contesting the exercise of the powers of distress conferred on landholders and others by this Act, or any thing purporting to be done in the exercise of the said power, or for compensation for wrongful acts or omissions of a distrainer;

(g) suits by lambardárs for arrears of Government revenue, payable through them by the co-sharers whom they represent, and for village-expenses and other dues for which the co-sharers may be responsible to the lambardár;

(h) suits by co-sharers for their share of the profits of a mahál, or any part thereof, after payment of the Government revenue, and village-expenses, or for a settlement of accounts;

(i) suits by muáfidárs, or assignees of the Government revenue, for arrears of revenue due to them as such;

(j) suits by taluqdárs and other superior proprietors, for arrears of revenue due to them as such.

94. Suits for arrears of rent or revenue, or Limitation of suits for a share of the profits of under this Act. a mahál, or of village-expenses or other dues, shall not be brought after three years from the day on which the arrears or share became due:

Suits relating to distress shall not be brought after three months from the day on which the right to sue accrued:

All other suits must be brought within one year from the day on which the right to sue accrues, unless otherwise specially provided for in this Act.

The day on which the arrears become due or the day on which the right to sue accrues (as the case may be) shall be excluded in computing the periods of limitation prescribed by this section.

95. No Courts other than Courts of Revenue Applications cogniz. shall take cognizance of any able by Revenue Courts dispute or matter on which only.

any application of the nature mentioned in this section might be made: and such applications shall be heard and determined in the said Courts in manner provided under this Act, and not otherwise:—

(a) Application to determine the nature and class of a tenant's tenure, under section ten.

(b) Application by a landholder, or his agent, to compel a patwari to produce his accounts relating to land.

(c) Application to resume rent-free grants under section thirty, and to assess to rent land previously held rent-free.

(d) Application from a landholder to eject a tenant, under section thirty-five or section thirty-six.

(e) Applications made by a tenant, under section thirty-nine.

(f) Application from a landholder under section forty for assistance to eject a tenant.

(g) Application from a tenant or landholder to determine the value of any standing crop, or ungathered products of the earth, belonging to the tenant and being on the land at the time of his ejection, under section forty-two.

(h) Application by a landholder to determine rent payable for land used by a tenant for the purpose of tending or gathering in the crop, under section forty-two.

(i) Application by a landholder or tenant for assistance in the division or appraisement of a standing crop, under section forty-three.

(j) Application by a landholder or tenant to determine compensation for improvements of land.

(k) Application by a tenant for leave to deposit rent.

(l) Application for enhancement of rent.

(m) Application for compensation for wrongful dispossession.

(n) Application for the recovery of the occupancy of any land of which a tenant has been wrongfully dispossessed.

(o) Application for abatement of rent.

(p) Application for leases or counterparts, and for the determination of the rates of rent at which such leases or counterparts are to be delivered.

For the purposes of the Court Fees Act, 1870, applications under clauses (c), (l), (m), (n), (o) and (p) of this section shall be deemed to be plaints in suits.

96. a. All applications under section ninety-five shall be made in the district in which the land, crops or products referred to is or are situate, and may, with the consent of the parties, be referred to arbitration under sections two hundred and twenty to two hundred and thirty-one (both inclusive) of the North-Western Provinces Land-Revenue Act, 1878.

b. All orders passed on applications under section ninety-five shall be proved in the same manner, and when proved shall have the same effect, as if they were judgments of the Civil Courts.

c. In cases wherein a specific sum of money is adjudged to be due, or any costs or damages are

awarded, all such orders may be executed by any process in use for the recovery of an arrear of revenue or rent.

d. In cases wherein possession of immoveable property is adjudged, the officer making the award may deliver over possession in the same manner, and with the same power, in regard to contempts, resistance and the like, as may be lawfully exercised by the Civil Courts in execution of their own decrees.

e. Applications under heads (m) and (n) of section ninety-five shall not be brought after six months from the date of the wrongful dispossession.

97. The Local Government may invest any officer with the powers of an Assistant Collector of the first or second class under this Act, and may at any time withdraw such powers.

98. Assistant Collectors of either class shall have, as such, power to try suits and applications of the following descriptions:—

(a) suits for arrears of rent on account of land or on account of any rights of pasture, forest-rights, fisheries or the like;

(b) suits for compensation for withholding receipts for rent paid, under section forty-eight;

(c) suits to contest the exercise of the powers of distress conferred on landholders and others by this Act, or anything purporting to be done in exercise of the said powers, or for compensation for wrongful acts or omissions of a distrainer;

(d) suits by lambardars for arrears of Government revenue, payable through them by the co-sharers whom they represent, and for village-expenses and other dues, for which the co-sharers may be responsible to the lambardar;

(e) suits by muafidars or assignees of the Government revenue, for arrears of revenue due to them as such;

(f) suits by taluqdars or other superior proprietors for arrears of revenue due to them as such;

(g) applications by a landholder, or by an agent employed by a landholder, to compel the production of accounts by patwaris;

(h) applications by a tenant or landholder to determine the value of any standing crops or ungathered products of the earth, and being on the land at the time of his ejection, under section forty-two;

(i) applications by a landholder to determine the amount of rent payable by a tenant using land for the purpose of tending or gathering in crops, under section forty-two;

(j) applications by a landholder or a tenant for assistance in the division or appraisement of standing crops, under section forty-three;

(k) applications by tenants for leave to deposit rent.

99. Assistant Collectors of the first class, in addition to the suits and applications triable by Assistant Collectors, first class, shall have power to try suits and applications of the following descriptions:—

(a) suits to eject a tenant for any act or omission detrimental to the land in his occupation, or

inconsistent with the purpose for which the land was let;

(b) suits to cancel a lease for any breach of any condition binding on the tenant;

(c) suits for the recovery of any over-payment of rent or for compensation, under section forty-eight or section forty-nine;

(d) suits by co-sharers for their shares of the profits of a mahál or any part thereof, after payment of the Government revenue and village-expenses, or for a settlement of accounts;

(e) applications by a landholder to eject a tenant, under section thirty-five or section thirty-six;

(f) applications under section thirty-nine by a tenant contesting notice of ejectment;

(g) applications by a landholder under section forty, for assistance to eject a tenant, on whom notice of ejectment has been served;

(h) applications for compensation for wrongful dispossession;

(i) applications by a landholder or tenant to determine the amount to be paid as compensation for improvements;

(j) applications to recover the occupancy of any land from which a tenant has been wrongfully dispossessed by the landholder.

100. In addition to the powers specified in Additional applic. sections ninety-eight and tions triable by Assistant ninety-nine, an Assistant Collector, first class, Collector of the first class with special powers. specially empowered by Government in this behalf, shall have power to try the following applications:—

(a) applications for enhancement of rent;

(b) applications for abatement of rent;

(c) applications under section thirty for the resumption of rent-free grants, or for the assessment to rent of land hitherto held rent-free;

(d) applications for leases or counterparts, and the determination of the rates of rent at which such leases or counterparts are to be delivered;

(e) applications to determine the nature or class of a tenant's tenure.

101. The Collector of the District, or any Power to make over Assistant Collector in charge cases. of a sub-division of a district, may make over any case, or class of cases for inquiry and decision, from his own file, to any of his subordinates competent to deal with such case or class of cases under the provisions of this Act.

102. Collectors of Districts, and Assistant Power to withdraw Collectors in charge of sub-cases. divisions of districts, may, respectively, withdraw any case or class of cases from any officers subordinate to them, and may deal with such case or class of cases themselves, or refer it for disposal to any other such Revenue Officer competent to deal with the same under the provisions of this Act.

Powers exercisable by Collector of District. **103.** The Collector of the District may exercise

(a) all powers given by this Act to Collectors of Districts;

(b) all powers which by this Act are conferred, or can be conferred, on Assistant Collectors.

The Local Government may invest any officer in charge of a sub-division of a district with all or any of the powers conferred by this Act on a Collector of District.

In conferring powers under this Act, the Local Government may empower persons specially by name, or classes of officials generally by their official titles.

CHAPTER VI.

PROCEDURE IN SUITS UP TO JUDGMENT.

104. Suits under this Act shall be instituted in the district in which the subject of the suit, or some part thereof, is situate, and all such suits shall be commenced by presenting to the Court a plaint, which shall contain—

(a) the name, description and place of abode of the plaintiff;

(b) the name, description and place of abode of the defendant, so far as they can be ascertained;

(c) the subject-matter of the claim, and its amount or value computed according to the Court Fees Act, 1870; and

(d) the date on which the right to sue accrued.

105. For the purpose of suing or being sued Managers of maháls to under this Act, the managers be, for purpose of litigation, of maháls, whether held under deemed landholders. the Court of Wards or under direct management, shall be deemed to be landholders.

106. No co-sharer in an undivided property Suits by co-sharers in shall in that character be undivided property. entitled separately to sue a tenant under this Act, unless he is authorized to receive from such tenant the whole of the rent payable by such tenant.

107. The plaint shall be presented by the plaintiff, or by an agent duly Plaintiff by whom presented. authorized on his behalf, who has personal knowledge of the facts of the case, or by an agent accompanied by a person who has such knowledge.

The plaint shall be subscribed and verified at the foot by the plaintiff or his Verification of plaint. agent in the manner following, or to the like effect:—

“I, A. B., the plaintiff named in the above plaint, do declare that what is stated therein is true to the best of my knowledge and belief.”

If the plaint contains any averment which the False averment. person making the verification knows or believes to be false, or does not know or believe to be true, he shall be punishable according to the law for the punishment of giving or fabricating false evidence.

108. If the plaintiff rely in support of his Document relied on by claim on any document in plaintiff to be presented his possession, he shall deliver the same to the Court at the time of presenting his plaint.

Unless such document be so delivered, or its non-production be sufficiently excused, or unless the Court see fit to extend the time for producing the same, it shall not afterwards be admitted.

109. If the plaintiff require the production of any document in the possession or power of the defendant, he may, at the time of presenting his plaint, deliver to the Court a description of the document, in order that the defendant may be required to produce the same.

110. If the suit be for the recovery of an arrear of rent or revenue, or of a share of profits or village-expenses, or other dues under section ninety-three, the plaintiff shall specify the name of the village and estate, and of the pargana or other local division in which the land is situate :

and, if the suit be for an arrear of rent alleged to be due from any tenant, the plaintiff shall also specify the quantity of land, and (where fields have been numbered in a Government survey) the number of each field, and yearly rent of the land; the amount (if any) received on account of the year for which the claim is made; and in all cases coming under this section the plaintiff shall specify the amount in arrear, and the time in respect of which it is alleged to be due.

111. If the suit be for the ejectment of a tenant, Plaintiff in suits for ejectment. from any land, the plaintiff shall describe (as circumstances may require) the extent, situation and designation of the land; and, if necessary for its identification, shall set forth its boundaries.

112. If the plaintiff do not contain the several particulars hereinbefore required to be specified therein, or be not subscribed and verified as hereinbefore required, the Court may, at its discretion, return it to the plaintiff, or allow it to be amended.

113. If the plaintiff be in proper form, the Court, Issue of summons. except as otherwise herein-after specially provided, shall direct the issue of a summons to the defendant,

and if the plaintiff require the personal attendance of the defendant, and satisfy the Court that such attendance is necessary, or the Court of its own accord require such attendance, the summons shall contain an order for the defendant to appear personally on a day to be specified in the summons.

If the plaintiff or the Court does not require the personal attendance of the defendant, the summons shall order the defendant to appear either personally or by an agent duly authorized on his behalf, who has personal knowledge of the subject, or is accompanied by a person who has such personal knowledge.

114. The day to be specified in the summons Fixing of day to be shall be fixed with reference specified in the summons. to the state of the file and the distance that the defendant may be or be supposed to be at the time from the place where the Court is held,

and the summons shall order the defendant to produce any document in his possession or power of which the plaintiff demands inspection, or upon which the defendant relies in support of his defence.

It shall also direct him to bring with him his witnesses, if they are willing to attend without issue of process,

and it shall be in the form (D) contained in the Form of summons. first schedule hereto annexed, or to the like effect.

115. The summons shall be served by delivering a copy thereof to the defendant personally when practicable;

or, if the copy cannot be delivered to the defendant personally, by affixing copy of the summons to some conspicuous part of his usual residence, and also affixing a copy of the same in the Court.

116. If the summons be served by delivering a copy to the defendant personally, the Nazir shall endorse on the summons the fact of such service.

If personal service be not effected, the Nazir shall endorse on the summons the reason of not serving it personally, and how it has been served.

117. If the usual residence of the defendant be in another district, Service of summons in another district. the summons, together with the cost of the service thereof, shall be sent by the public post to the Collector of such district, who shall issue the summons, and return the same, after service, with the prescribed endorsement, to the officer by whom it was transmitted to him.

118. The amount of the cost of serving the summons, Deposit of cost of serving summons or warrant. or, if a warrant be issued as provided in the next following section, of serving the warrant,

shall in all cases be deposited in Court by the plaintiff within such time before the issue of such summons or warrant as is fixed by the Court issuing the process.

If the said amount be not so deposited (except where the Court in exercise of the discretion reserved to it in section ninety-one allows the summons to be served gratis), the case shall be struck off the file of suits;

but in such case the plaintiff may present another plaint at any time within the period allowed by the rules herein contained for the limitation of suits.

119. a.—If in any suit against a tenant for the recovery of an arrear of rent, Procedure when plaintiff desires issue of warrant of arrest. or in any suit for the recovery of an arrear of revenue, or a share of profits or village-expenses or other dues, the plaintiff desires a warrant of arrest to be issued against the defendant, such defendant being resident within the district in which the suit is instituted, the plaintiff shall present, with his plaint, an application for the issue of such warrant.

b.—When such application is presented, the Court shall examine the plaintiff or his agent, according to the law for the time being in force in relation to the examination of witnesses, and inspect the documents adduced by him in support of his claim; and if *prima facie* it appear to the Court that the claim is well founded, and that, if a summons be issued, the defendant will abscond instead of appearing to answer the claim, the Court may issue a warrant for his arrest.

c.—The Court shall fix a reasonable time for the return of the warrant, and the officer entrusted with the service thereof shall, at the time of arresting the defendant, deliver to him a notice addressed to the defendant containing the particulars of the claim, and requiring the defendant, if he contest the claim, to bring with him any document upon which he relies in support of his defence.

d.—Every warrant issued and notice delivered under this section, shall be respectively in the forms (E) and (F) in the first schedule hereto annexed, or to the like effect.

120. If a defendant be arrested under the warrant of arrest, he shall be brought with all convenient speed before the Court.

Procedure after arrest of defendant.—Court under warrant, the defendant is brought before Court shall with all convenient speed proceed to try the case in the manner hereinafter provided

and if the suit cannot be at once adjudicated, the Court may, if it think fit, require the defendant to give security for his appearance whenever the same may be required at any time whilst the suit is pending, or until execution of the final decree which may be passed thereon,

and may commit him to the civil jail to be there detained until he furnishes such security or deposits such sum as the Court orders.

The security-bond shall be in the form (G) contained in the first schedule hereto annexed, or to the like effect.

122. If the defendant cannot be arrested under the warrant, the Court, on the application of the plaintiff, shall either postpone the case for such period as to it seems proper, in order that the plaintiff may apply within the said period for another warrant to be issued for the arrest of the defendant, or shall forthwith issue a proclamation, to be affixed in its own office and at the residence of the defendant, appointing a day for the hearing of the case, which shall not be less than ten days from the date of the publication of the notice, at the residence of the defendant.

If the defendant appear in pursuance of the proclamation, he shall be dealt with as provided in the last preceding section.

123. If it appear to the Court that the arrest of the defendant was not applied for without reasonable cause, the Court may, in its decree, award to him such sum not exceeding one hundred rupees as it may deem a reasonable compensation for any injury or loss which he has sustained by reason of such arrest, or of his detention in jail during the pendency of the suit.

124. If on the day fixed by the summons or proclamation for the appearance of the defendant, or on any subsequent day to which

the hearing of the case may be adjourned prior to the recording of an issue for trial as hereinafter provided, neither of the parties appear in person or by an agent, the case may be struck off, with liberty to the plaintiff to bring a fresh suit, unless precluded by the rules herein contained for the limitation of suits.

125. If on any such day the defendant only appear, the Court shall pass judgment against the plaintiff by default, unless the defendant admit the plaintiff's right to the relief which he claims, in which case the Court shall proceed to give judgment for the plaintiff upon such admission without costs:

Provided that such judgment, if there be more than one defendant, shall be only against the defendant who makes the admission.

126. If on any such day the plaintiff only appear, the Court, upon proof that the summons or proclamation has been duly served according to the provisions of this Act, shall proceed to examine the plaintiff or his agent, and after considering the allegations of the plaintiff, and any documentary or other evidence adduced by him, may either dismiss the case or postpone the hearing of it to a future day for the attendance of any witness the plaintiff may wish to call, or may pass judgment *ex parte* against the defendant.

127. If the defendant appear on any subsequent day to which the hearing of the suit is postponed under the last preceding section, the Court may, upon such conditions, if any, as to costs or otherwise as it thinks proper, allow the defendant to be heard in answer to the suit as if he had appeared on the day fixed for his attendance.

128. a. No appeal shall lie from a judgment passed *ex parte* against a defendant who has not appeared, or from a judgment against a plaintiff by default for non-appearance.

b. But in all such cases, if the party against whom judgment has been given appears, either in person or by agent, if a plaintiff, within fifteen days from the date of the Court's decree, and, if a defendant, within fifteen days after any process for enforcing the judgment has been executed, or at any earlier period, and shows good and sufficient cause for his previous non-appearance, and satisfies the Court that there has been a failure of justice, the Court may, upon such terms and conditions as to costs or otherwise as it thinks proper, revive the suit and alter or rescind the judgment according to the justice of the case.

c. But no judgment shall be reversed or altered Adverse party to be without previously summoning the adverse party to appear and be heard in support of it.

129. When both parties appear in person or by agent on the day named in the summons, or upon any subsequent day to which the hearing of the case may be adjourned, for sufficient reason to be recorded by the Court, the Court shall proceed to examine such of the parties as may be present, and either party or his agent may cross-examine the other party or his agent.

130. If either of the parties be not bound to attend personally, any agent by whom he appears, or any person accompanying such agent, may be examined and cross-examined in like manner as the party himself would have been if he had attended personally.

131. At the time of the examination, the defendant may file a written statement in his defence.

132. The examination of the parties or their agents, or such other persons as aforesaid, shall be according to the law for the time being in force relative to the examination of witnesses in the Civil Courts.

The substance of the examination shall be reduced to writing in the mother-tongue of the presiding officer, and shall be filed with the record.

133. If either of the parties produce a witness on such day, the presiding officer may take the evidence of such witness.

134. If the defendant rely on any document in support of his defence, he shall deliver the same into Court at the first hearing of the suit:

and unless such document be so delivered, or its non-production be sufficiently excused, or unless the presiding officer see fit to extend the time for delivering the same, it shall not afterwards be admitted.

135. If after the examination required by section one hundred and twenty-nine, and also the examination of any witness who may attend to give evidence on behalf of either of the parties, and after a consideration of the documentary evidence adduced, a decree can be properly made without further evidence, the Court shall make its decree accordingly.

136. If on such examination as aforesaid either party be absent and his agent be unable to answer any material question relating to the case which the Court is of opinion that the party whom he represents ought to answer, and is likely to be able to answer if interrogated in person, the Court may postpone the hearing of the case to future day, and direct that the party whose agent was unable to answer as aforesaid shall attend in person on such day;

and if such party fails to appear in person on the day appointed, the Court may pass judgment as in case of default, or make such other order as it deems proper in the circumstances of the case.

137. If on such examination as aforesaid it appear that the parties are at issue on any question upon which it is necessary to hear further evidence, the Court shall declare and record such issue, and shall fix a convenient day for the examination of witnesses and the trial of the suit; and the trial shall take place on that day, unless there be sufficient reason for adjourning it, which reason shall be recorded by the Court.

138. The parties shall produce their witnesses on the day of trial, and if either party require assistance to procure the attendance of a witness on such day, either to give evidence or to produce a document, he shall apply to the Court in sufficient time before the day fixed for the trial, to enable the witness to be summoned to attend on that day; and the Court shall thereupon issue a summons requiring such witness to attend.

139. The law and rules for the time being in force relating to the evidence attendance, examination, of witnesses, for procuring &c., of witnesses. the attendance of witnesses and the production of documents, and for the examination, remuneration and punishment of witnesses, whether parties to the case or not, in cases before the Civil Courts, shall, except so far as may be inconsistent with the provisions herein contained, apply to suits under this Act.

140. If on the day fixed for the trial of any case to be struck off issue neither of the parties appear, the case may be struck off, with liberty to the plaintiff to bring a fresh suit, unless precluded by the rules herein contained for the limitation of suits.

If on any such day one only of the parties appear, the issue may be tried and determined in the absence of the other party, upon such evidence as may be then before the Court.

141. When suits under this Act are instituted or defended by agents employed in the collection of rent or management of land, in the name and on the behalf of the landholders by whom they are so employed, all the provisions of this Act, by which the personal appearance or attendance of parties to a suit is or may be required, shall be applicable to such agents;

and anything which, by this Act, is required or permitted to be done by a party in person, may be done by any such agent as aforesaid.

Processes served on any such agent shall be served on as effectual for all purposes such agents. in relation to the suit, as if the same had been served on the landholder in person:

and all the provisions of this Act relative to the service of processes on a party to the suit shall be applicable to the service of processes on such agent.

142. A female plaintiff or defendant shall not

Personal attendance of female plaintiff or defendant when not required. be required to attend in person, if she be of a rank or class which, according to the custom and manners

of the country, would render it improper for her to appear in public.

143. Any party to a suit may employ an

Parties may employ agents or mukhtars; authorized agent or mukhtár to conduct the case on his behalf:

but the employment of such agent or mukhtár shall not excuse the personal attendance of the plaintiff or defendant, in cases where his personal attendance is required by the summons, or any order of the Court;

and no fee for any agent or mukhtár shall be charged as part of the costs chargeable as costs. of suit in any case under this Act, unless the Court certify that, under the circumstances of the case, such fee is proper to be allowed.

144. The Court may in any case grant time to the plaintiff or defendant to proceed in the prosecution or defence of a suit,

and may also, from time to time, in order to the production of further evidence, or for other sufficient reason to be recorded by the Court, adjourn the hearing of any case, to such day as to it may seem fit.

145. The presiding officer may, at any stage of a case, cause a local inquiry and enquiry and report, or report respecting the matter may itself enquire. in dispute to be made by any officer subordinate to him, or by any other officer of Government, with the consent of the authority to whom such officer is subordinate, or may himself proceed to the spot and make such local inquiry in person.

The provisions of the law for the time being in force relative to local inquiries by Amirs or Commissioners, under orders of the Civil Courts, shall apply to any local inquiry made by any officer under this section,

and, so far as they are applicable, to inquiries made by the presiding officer of the Court in person.

In the latter case the presiding officer, after completing the inquiry, shall record such observations as appear to him appropriate, and the observations so recorded shall form part of the proceedings in the suit.

146. The defendant in any suit under this

Defendant may pay admitted debt and costs. Act may pay into Court such sum of money as he thinks into Court.

mand of the plaintiff, together with the costs incurred by the plaintiff up to the time of such payment, and such sums shall be paid to the plaintiff.

If the defendant deposit less than the sum Plaintiff chargeable with subsequent costs if he proceed and recover no further sum, claimed and the plaintiff elect to proceed in the case, and ultimately recover no further sum than has been

paid into Court, the plaintiff shall be charged with any costs incurred by the defendant in the suit after such payment.

147. No interest shall be allowed to a plaintiff

No interest to plaintiff on any sum paid by the defendant into the Court from by defendant. the date of such payment, whether such sum be in full of the plaintiff's claim, or fall short thereof.

148. When in any suit between a landholder

In suits where right to receive rent is disputed, third person who has received it may be made a party. of the land or tenure cultivated or held by the tenant is disputed on the ground that some third person has actually and in good faith received and enjoyed such rent before and up to the time when the right to sue accrued, such third person may be made a party to the suit,

and the question of such receipt and enjoyment of the rent by such third person may be enquired into, and the suit shall be decided according to the result of such enquiry:

Provided that the decision of the Court shall

Saving of right to sue not affect the right of either in Civil Court to prove party entitled to the rent of title to rent such land, to establish his title by suit in the Civil Court, if instituted within one year from the date of the decision.

149. Whenever a decree is given for the eject-

Court may allow tenant to repair damage caused by certain acts or omissions. ment of a tenant, or the cancellation of his lease, on account of any act or omission by which the land in

his occupation has been damaged, or which is inconsistent with the purpose for which the land has been let, the Court may, if it think fit, allow him to repair such damage within one month from the date of the decree, or order him to pay such compensation, within such time, or make such other order in the case, as the Court thinks fit.

and if such damage be so repaired, or compensation so paid, or order obeyed, the decree shall not be executed.

150. Every judgment Delivery of judgment. under this chapter shall be pronounced in open Court.

151. The judgment shall be written in the mother-tongue of the presiding officer, and shall contain its language and contents. the reasons for the same, and shall be dated and signed by the presiding officer at the time it is pronounced:

Provided that, where his mother-tongue is not When it may be in English, the judgment may be written in English, if he is able to write a clear and intelligible decision in that language.

152. Every officer invested with powers under Power to hold Court in any place within district. this Act may hold a Court for hearing and determining suits under this Act in any place within the limits of the district to which he is appointed.

Every hearing shall be in open Court, and the parties to the suit or their authorized agents shall have due notice to attend in such place.

CHAPTER VII.

PROCEDURE IN EXECUTION OF DECREES IN SUITS.

153. If the decree be for the ejectment of any tenant from land occupied by him, the decree shall be executed by giving the possession or occupancy of the land to the person entitled by the decree thereto.

If any opposition is made to the execution of the order for giving such possession or occupancy, by the party against whom the order is made, the Magistrate, on the application of the Collector of the District or Assistant Collector, shall give effect to the same.

154. If the decree be for the payment of arrears of rent or revenue, or of money, and the defendant has been committed to civil jail, in certain cases, or appear in Court pursuant to the conditions of any security-bond given under section one hundred and twenty-one, the Collector of the District or Assistant Collector may order that he be detained in, or committed to, the civil jail, unless he immediately pay into Court the amount of the decree with costs, or otherwise comply with the terms of the decree.

155. If the judgment-debtor has given security for his appearance, and is not present when judgment is pronounced, and the surety fails to deliver him into custody when required so to do, process of execution may be taken out against the surety in the same manner as if a decree for the amount due by the debtor had been passed against the surety.

156. a. A writ of execution may be issued against either the person or the property of a judgment-debtor; but process shall not be issued simultaneously against both person and property.

b. Such writ may be issued on the oral application of the judgment-creditor, his agent, or mukhtár, made at the time the decree is passed, or thereafter, upon the written application of the judgment-creditor, his agent, or mukhtár.

c. Writ of execution against the person or moveable property of a debtor shall be in the form (H) or (I) contained in the first schedule hereto annexed, or to the like effect.

157. Any moveable property required to be seized under an execution of writ against movable property shall, if practicable, be described in a list to be furnished by the judgment-creditor;

but, if the creditor is unable to furnish such list, he may apply for a general attachment of the debtor's effects, to the amount of the judgment and costs.

In either case, the property to be seized shall be pointed out to the officer entrusted with execution of the process, by the creditor, or his agent:

Provided that no implements of husbandry, or articles exempted from attachment, agriculture, or tools of artisans, shall be attached under this section.

158. Every writ of execution shall bear date on the day on which it is signed by the Collector of the District or Assistant Collector, and shall continue in force for such period as he may direct (not being more than sixty days) calculated from such date.

159. Second and successive writs of execution may be issued by order of the Collector of the District or Assistant Collector or on the application of the judgment-creditor, after the expiration of the period fixed for the continuance in force of a previous warrant.

160. Process of execution shall not be issued upon any judgment, without previous notice to the party against whom execution is applied for, if, when application for the issue of the process is made, a period of more than one year has elapsed from the date of the judgment, or from the date of the last previous application for execution.

161. Execution on a judgment shall not issue against the heir or other representative of a deceased party, unless notice to appear and be heard has been previously served on such heir or other representative.

162. No process of execution shall be issued on a judgment under this Act, after the lapse of three years from the date of such judgment, unless the judgment be for a sum exceeding five hundred rupees;

in which case the period within which execution may be had shall be regulated by the general rules in force in respect to the period allowed for the execution of decrees of the Civil Court.

163. If a writ issue for taking any person in execution, the officer charged with the execution of the writ shall bring him with all convenient speed before the Collector of the District or Assistant Collector.

If such person does not then deposit in Court the full amount specified in the writ, or make such arrangement for the payment of the same as is satisfactory to the judgment-creditor, or satisfy the Collector of the District or Assistant Collector that he has no present means of paying the same amount,

the Collector of the District or Assistant Collector shall send him to the civil jail, there to remain for such time as may be directed by a warrant addressed to the keeper of the jail, unless in the meanwhile he pays the full amount for the payment of which he is liable under the decree:

Provided that the time for which a debtor may be confined in execution of a decree under this Act, shall not exceed three months when the amount decreed (exclusive of costs) does not exceed fifty rupees, or six months when such amount does not exceed five hundred rupees, or two years in any other case.

164. a. Any person once discharged from jail No person to be imprisoned a second time second time under the same judgment.

b. If the amount due under the decree does not exceed one hundred rupees, When further liability extinguished. the Collector of the District or Assistant Collector may declare such discharged person absolved from further liability under that decree, and such liability shall thereupon be extinguished.

c. In other cases the discharge shall not extinguish the liability of the discharged person under the decree, or exempt any property belonging to such person from attachment in execution of the same.

165. Every person applying for the issue of a warrant of arrest under section one hundred and nineteen, or suing out process of execution against the person of any judgment-debtor, shall deposit in Court, when the warrant issues, diet-money for thirty days at such rate not exceeding two annas per diem, as the Collector of the District or Assistant Collector may direct, unless for any special reason he directs that deposit be made at a higher rate, which shall not exceed four annas per diem.

166. Payment of diet-money at the same rate
Effect of non-payment shall be made previously to the commencement of each during imprisonment. succeeding month of the imprisonment, on failure of which the party confined shall be discharged.

167. All diet-money spent in providing subsistence for any prisoner shall be added to the costs in the suit, and any diet-money not so spent shall be returned to the person who deposited the same.

168. In executing a writ of execution against the moveable property of a debtor liable under this Act, the officer charged with the execution of the writ shall prepare a list of the property pointed out by the judgment-creditor, and shall publish a proclamation, specifying the day upon which the sale is intended to be held, together with a copy of the said list, at the intended place of sale and at the residence of the debtor.

A copy of the said proclamation and list shall be sent to the Collector of the District or Assistant Collector, and shall be affixed in his office.

169. No moveable property taken in execution under this Act shall be sold before the expiration of ten days next after the day on which such property is so taken.

Until such sale the property shall be deposited in some fit place, or it may remain in custody of some fit person approved by the officer executing the writ.

The provisions of sections seventy-four to seventy-eight (both inclusive) so far as the same are applicable, shall apply to sales under this section.

170. No irregularity in publishing or conducting a sale of any moveable property under an execution shall vitiate such sale.

But any person injured by such irregularity Right to sue for compensation may recover compensation for such injury by suit in the Civil Court:

Limitation. provided that such suit be brought within one year from the date of sale.

171. In the execution of any decree for the payment of arrears of rent or revenue, or of money, under this Act, if satisfaction of the judgment cannot be obtained by execution against the person or moveable property of the debtor, the judgment-creditor may apply for execution against any immoveable property belonging to such debtor.

172. If the immoveable property against which execution is applied for be other than a mahál, or share of a mahál, process shall be issued in the same manner as for the attachment and sale of moveable property: and the provisions of sections one hundred and sixty-eight, one hundred and sixty-nine, and one hundred and seventy shall be applicable.

173. When such property is a mahál, or a share of a mahál, the decree shall be sent for execution to the Collector of the District in which such property is situate,

and if the judgment-debtor satisfies the Collector of the District that there is reasonable ground to believe that the amount of the judgment-debt may be raised by mortgage of the property, or by letting it on lease, or by disposing by private sale of a portion of the property or any other property belonging to the judgment-debtor, the Collector of the District may, on the application of the judgment-debtor, postpone the sale for such period as the Collector of the District thinks proper to enable the judgment-debtor to raise the amount,

and if the judgment-debtor satisfies his creditor, the execution shall be stayed, and the Collector shall report the fact to the Court by which the decree was made.

174. If the judgment-debtor obtaining a postponement of the sale fails to satisfy his creditor within the period so fixed, or if the judgment-debtor does not apply for, or applies for but

does not obtain, a postponement of the sale, and the Collector of the District considers that the sale of the mahal or share is inexpedient, and that satisfaction of the decree may be made by means of a temporary alienation of the property,

the Collector of the District shall cause an accurate rent-roll of the property to be prepared, and ascertain the annual income derivable therefrom.

If, in the opinion of the Collector of the District, such income is sufficient to pay off the judgment-debt with interest at six per cent. per annum, within any period not exceeding fifteen years from the date of the decree, he may transfer

Power to transfer property to judgment-creditor.

take it, to some other person, or he may hold it

Power to hold property under management.

sufficient for the recovery of the debt with interest as aforesaid, and on such conditions as to the payment of such debt and interest as he deems expedient.

Orders passed under this section and section one hundred and seventy-three shall be subject to revision by the Commissioner of the Division and the Board, but shall not be open to appeal to the Civil Court.

175. If in the opinion of the Collector of the District the recovery of the

Report of case to debt under section one hundred and seventy-four is im-

possible, or if the sale of the property appear to him advisable on other grounds, he shall report, through the Commissioner of the Division, the case for orders to the Board.

176. On the receipt of such report, the Board

Procedure on receipt of report.

may make, or cause to be made, such further endeavours for the recovery of the

debt under the provisions of section one hundred

and seventy-four, as to it may seem practicable.

177. If it appear to the Board that the debt

Power to order sale of property.

cannot be recovered under section one hundred and seventy-four, or if the sale of the property appear to it advisable on other grounds, it shall order the property to be sold, in which case the sale shall be made under the rules in force for the sale of land for arrears of land revenue, but without prejudice to the incumbrances (if any) to which such property may be subject.

178. If before the day fixed for any sale

Examination of third party claiming interest in property.

this Act, a third party appear before the Collector of the District or Assistant Collector, and claim a right or interest to or in any of the property, he shall examine such party or his agent, according to the law for the time being in force relative to the examination of witnesses,

and, if he see sufficient reason for so doing, Stay of sale.

may stay the sale of such property.

179. The Collector of the District or Assistant

Adjudication of such claims.

Collector may adjudicate upon such claim, and make such order as he thinks fit

between the claimant and the plaintiff and defendant in the original suit.

In trying such claim, the Collector of the District or Assistant Collector shall be guided by the rules contained in this Act, so far as they may be applicable.

180. If the claimant fail to establish his right to the property taken in execution, the Collector of the District or Assistant Collector may, at the time of disposing of the case, order him to pay to the judgment-creditor the costs of the proceedings on the claim, and also such sum as he thinks sufficient to cover any loss of interest or damage which the judgment-creditor may have sustained by reason of the postponement of the sale of the property.

181. a. No appeal shall lie from any order passed No appeal from order under section one hundred under section 179 or 180. and seventy-nine or section one hundred and eighty by the Collector of the District.

b. But the party against whom the same is Right to sue in Civil Court. given may bring a suit in the Civil Court to establish his right at any time within one year from the date of the order:

c. Provided that, if the order be for the sale of the property taken in execution, the suit shall not be for the recovery of such property, but shall be for compensation from the judgment-creditor by whom it was brought to sale.

CHAPTER VIII.

APPEALS.

(A) From Decrees in Suits.

182. In suits under this Act, tried and decided by a Collector of a District or an Assistant Collector of the first class, his judgment shall be final, and not open to revision or appeal, except as provided by section one hundred and eighty nine.

183. All decisions of the Assistant Collector Appeal from decision of the second class in suits of Assistant Collector of mentioned in section ninety-three shall be appealable to the Collector of the District, whose order thereon shall (subject to the provisions of section one hundred and eighty-nine) be final.

184. The petition of appeal shall be presented Time for presentation. to the Collector of the District within thirty days from the date of the decree.

185. The Collector of the District may either dismiss the petition or may Procedure on appeal. fix a day for hearing the appeal, and in that case he shall cause notice of the same to be served on the respondent in the manner hereinafter prescribed for the service of summons.

209. In any suit brought by a co-sharer against a lombardár for a share of the profits, the Court may award to the plaintiff not only a share of the profits actually collected, but also a sum equal to the plaintiff's share in the profits which, through gross negligence or misconduct, the lombardár has omitted to collect.

210. In any suit brought by a tenant against a landholder to recover possession of a holding, the plaintiff may join as a defendant to the suit any other person in possession of the holding, who may claim title through the landholder.

In any suit brought by a landholder to eject a tenant, the plaintiff may join as a defendant to the suit any other person in possession of the holding, who may claim title through the tenant.

211. The Local Government may from time to time make rules consistent with this Act—

(a) for the guidance of officers in determining, under sections thirteen, fourteen, fifteen, seventeen, eighteen, and twenty, the rent payable by tenants,

(b) for the guidance of officers assessing rent under section thirty,

(c) as to the dates on which instalments of rent shall fall due,

(d) as to the procedure to be followed on all applications under section ninety-five.

All such rules shall be published in the local official Gazette, and shall thereupon have the force of law.

The Board with the previous sanction of the Local Government, may from time to time make rules consistent with the provisions herein contained, for the guidance of all persons in matters connected with the enforcement of this Act.

212. When the Local Government has made a rule fixing the date on which any instalment of rent shall fall due, no such instalment shall, for the purposes of this Act, be deemed to be in arrear unless it remains unpaid after the date fixed by such rule.

THE FIRST SCHEDULE.

FORM A. (See section 51.)

I, A. B., of , solemnly declare that I did personally, [or by my agent C. D.], on the day of , tender payment to E. F. of the sum of Rs. as and for the whole amount due from me on account of rent from the month of to the month of both inclusive. I further declare that the said E. F. refused to accept the sum so tendered, and to give a receipt in full for the same, and I declare that, to the best of my belief, the sum of rupees so tendered, and which I now desire to pay into Court, is the full amount I owe the said E. F., and I hereby apply for leave to pay the same accordingly.

FORM B. (See section 52.)

Court of the Collector of , dated the day of

To E. F. &c.

With reference to the written declaration of A. B., you are hereby informed that the sum of rupees therein mentioned is now in deposit in this Court, and that the above sum will be paid to you, or to your duly authorized agent, on application.

[This is to be written on a copy of the declaration in Form A made by the person paying the money into Court.]

FORM C. (See section 69.)

FORM OF NOTICE TO OWNER OF DISTRAINED PROPERTY.

Office of Commissioner for sale of distrained property.

A. B., Distrainer.

[Name, description and address of the owner of the property.]

Whereas the said A. B. has applied to have the distrained property specified below sold for the recovery of alleged to be due to him as arrears of rent, you are hereby required, either to pay the said sum to the said A. B., or to institute a suit before the Collector to contest the demand within fifteen days from the receipt of this notice, failing which the property will be sold.

Dated this day of 187

FORM D. (See section 114.)

FORM OF SUMMONS TO DEFENDANT.

No. (of suit) dated

In the Court of

A. B., Plaintiff.

[Name, description and address of plaintiff.]

C. D., Defendant.

[Name, description and address of defendant.]

Whereas the said A. B. has brought a claim against you in this Court for (here specify particulars of claim as given in the plaint), you are hereby required to appear in person in this Court on the day of [if not specially required to appear in person, state, "in person, or by an agent who has personal knowledge of the subject or who shall be accompanied by a person who has such knowledge"] to answer the abovenamed plaintiff, and you will bring with you (or send by your agent) [here mention any document the production of which may be required by the plaintiff] which the plaintiff desires to inspect, and all documents on which you may intend to rely in support of your defence. You will also bring with you your witnesses, if they are willing to attend without issue of process.

FORM E. (See section 119.)

FORM OF WARRANT OF ARREST.

No. (of suit) dated

In the Court of

A. B., Plaintiff.

C. D., Defendant.

To the Názir of the Court of the Collector of

Whereas the plaintiff in this suit has obtained an order from the Court for the arrest of the defendant, you are hereby commanded to bring the defendant before the Court on or before the day of to be dealt with according to law.

Dated this day of 187 .

FORM F. (See section 119.)

FORM OF NOTICE TO ACCOMPANY SUCH WARRANT.

In the Court of

A. B., Plaintiff.

[Name, description and address of plaintiff.]

C. D., Defendant.

[Name, description and address of defendant.]

Whereas the said A. B. has brought a claim against you in this Court for (here specify particulars of claim as given in the plaint) and has obtained a warrant for your arrest, you are hereby required, unless you admit the claim, to bring with you to the Court all documents on which you may intend to rely in support of your defence.

FORM G. (See section 121.)

FORM OF SECURITY BOND FOR APPEARANCE OF DEFENDANT.

Whereas A. B., plaintiff, has instituted a suit in the Court of the Collector of against C. D., defendant, and the said C. D. has been required to give security for his appearance at any time when called on while the suit is pending and until execution of the decree, I, E. F., hereby declare myself surety for the said C. D.'s appearance as aforesaid, and in case of his making default in such appearance, I engage to pay any sum for the payment of which the said C. D. may be liable under the decree. If the suit be for the delivery of papers or accounts, specify some sum to be fixed by the Collector.

FORM H. (See section 156.)

WRIT OF EXECUTION AGAINST THE PERSON.

A. B., Plaintiff.

C. D., Defendant.

To the Názir of the Court of the Collector of

Whereas the said C. D. was directed by a decree of this Court, under date the day of

187 , to pay to A. B. the sum of and for costs of suit, amounting to , and whereas the said C. D. has omitted to pay the same, you are hereby commanded to apprehend the said C. D., and to bring him with all convenient speed before this Court to be dealt with according to law.

FORM I. (See section 156.)

WRIT OF EXECUTION AGAINST THE EFFECTS.

A. B., Plaintiff.

C. D., Defendant.

To the Názir of the Court of the Collector of

Whereas C. D. was directed by a decree of this Court under date the day of 187 , to pay to A. B. the sum of and for costs of suit, amounting to , and whereas the said C. D. has omitted to pay the same, you are hereby commanded to levy the said sum of , and the sum of for costs of executing this process, by seizure and sale of such moveable property of the said C. D. as (is described in the list annexed, and) [if no list is furnished, these words to be omitted] shall be pointed out to you by the judgment-creditor or his agent; and you are hereby ordered to sell such property of the said C. D., on some convenient day, not being less than ten nor more than fifteen days from the day of seizure, unless the amount leviable as aforesaid shall be sooner paid; and you are hereby commanded to certify to me what you shall do by virtue of this warrant.

THE SECOND SCHEDULE.

(See section 1.)

I. The Province of Kumaon and Garhwál.

II. The Terai Parganas, comprising—Bázpúr, Káshípúr, Jaspúr, Rudarpúr, Gadarpúr, Kilpúr, Nanak-Mattha and Bihéri.

III. In the Mirzapúr District:—

- (1.) The tappás of Agori Khás and South Kon in the Pargana of Agori.
- (2.) The tappá of British Singrauli in the Pargana of Singrauli.
- (3.) The tappás of Phulwá Dudhi and Barhá in the Pargana of Bichipár.
- (4.) The portion lying to the South of the Kaimor Range.

IV. The Family Domains of the Mahárájá of Benares comprising the following parganas:—

Bhadohi and Kheyra Mángror in the Mirzapúr District,
Kaswá Rájá in the Benares District.

V. The tract of country known as Jaunsar Bawar in the Dehra Ókún District.

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(Nothing hereinafter contained has the force of law.)

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